



भारत का राजपत्र The Gazette of India

सी.जी.-डी.एल.-सा.-23072021-228433
CG-DL-W-23072021-228433

प्राधिकार से प्रकाशित
PUBLISHED BY AUTHORITY
साप्ताहिक
WEEKLY

सं. 25]	नई दिल्ली, जुलाई 11—जुलाई 17, 2021 शनिवार/आषाढ़ 20—आषाढ़ 26, 1943
No. 25]	NEW DELHI, JULY 11—JULY 17, 2021, SATURDAY/ASHADHA 20—ASHADHA 26, 1943

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह पृथक संकलन के रूप में रखा जा सके
Separate Paging is given to this Part in order that it may be filed as a separate compilation

भाग II—खण्ड 3—उप-खण्ड (ii)
PART II—Section 3—Sub-section (ii)

भारत सरकार के मंत्रालयों (रक्षा मंत्रालय को छोड़कर) द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं
Statutory Orders and Notifications Issued by the Ministries of the Government of India
(Other than the Ministry of Defence)

कार्मिक, लोक शिकायत तथा पेंशन मंत्रालय

(कार्मिक और प्रशिक्षण विभाग)

नई दिल्ली, 2 जुलाई, 2021

का.आ. 444.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए राजस्थान राज्य सरकार, की अधिसूचना सं. एफ.19(15)गृह-5/2021, दिनांक 31.05.2021, गृह (गृ-V) विभाग, जयपुर के माध्यम से जारी सम्मति से, श्री कमलेश प्रजापत की मृत्यु के संबंध में सदर थाना, बाड़मेर जिला में भारतीय दण्ड संहिता (1860 का 45) की धाराएं 307, 332 और 353, आयुध अधिनियम, 1959 (1959 का 54) की धाराएं 3 और 25, स्वापक औषधि और मनःप्रभावी पदार्थ अधिनियम, 1985 (1985 का 61) की धाराएं 8, 15 और 18 तथा लोक

संपत्ति नुकसान निवारण अधिनियम, 1984 (1984 का 3) की धारा 3 के तहत दर्ज मामला एफआईआर सं. 136/2021, दिनांक 23.4.2021 से संबंधित अपराध(धों) का अन्वेषण तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त राजस्थान राज्य में करती है।

[फा. सं. 228/26/2021-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

MINISTRY OF PERSONNEL, PUBLIC GRIEVANCES AND PENSIONS

(Department of Personnel and Training)

New Delhi, the 2nd July, 2021

S.O. 444.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Rajasthan, issued vide Notification No. F.19 (15) Home-5/2021 dated 31.05.2021, Home (Gr.-V) Department, Jaipur, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment to the whole State of Rajasthan for investigation into the offence(s) relating to case FIR No. 136/2021 dated 23.4.2021, registered under sections 307, 332 and 353 of the Indian Penal Code (45 of 1860), sections 3 and 25 of the Arms Act, 1959 (54 of 1959), sections 8, 15 and 18 of the Narcotic Drugs and Psychotropic Substance Act, 1985 (61 of 1985) and section 3 of the Prevention of Damage to Public Property Act, 1984 (3 of 1984) at Police Station Sadar, District Barmer, pertaining to death of one Shri Kamlesh Prajapat and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/26/2021-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 7 जुलाई, 2021

का.आ. 445.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए महाराष्ट्र राज्य सरकार, आदेश सं. सीबीआई 2021/सीआर 134/पीओएल-2, दिनांक 10.03.2021, गृह विभाग, मुंबई, के माध्यम से जारी सहमति से, श्री सुरजीत दत्ता, क्षेत्रीय कार्यालय, ईपीएफओ, थाणे में तैनात के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) के तहत दिनांक 08.03.2021 को की गई शिकायत, जिसके आधार पर दिनांक 11.03.2021 को एक सीबीआई मामला, आरसी-0262021ए0004 दर्ज की गई है, से उत्पन्न अपराध(धों) का अन्वेषण तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 11.03.2021 से) समस्त महाराष्ट्र राज्य में करती है।

[फा. सं. 228/27/2021-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 7th July, 2021

S.O. 445.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Maharashtra issued vide Order No. CBI 2021/CR 134/POL-2 dated 10.03.2021, Home Department, Mumbai, hereby extends the powers and jurisdiction of the members of the Delhi Special Police

Establishment (ex post facto w.e.f. 11.03.2021) to the whole State of Maharashtra for investigation into the offence(s) arising out of complaint dated 08.03.2021 against Shri Surjit Datta, posted in the Regional Office, EPFO, Thane under the Prevention of Corruption Act, 1988 (49 of 1988); based on which a CBI Case, RC-0262021A0004 has been registered on 11.03.2021 and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/27/2021-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 7 जुलाई, 2021

का.आ. 446.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए महाराष्ट्र राज्य सरकार, आदेश सं. सीबीआई 2021/सीआर 188/पीओएल-2, दिनांक 08.04.2021, गृह विभाग, मुंबई, के माध्यम से जारी सहमति से सर्वश्री/श्री दिलीप कुमार, आशीष कुमार और एस. एन. राय, निरीक्षकों, आय कर, मुम्बई, महाराष्ट्र, मुम्बई सिटी के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) के तहत दिनांक 06.04.2021 को की गई शिकायत, जिसके आधार पर दिनांक 08.04.2021 को एक सीबीआई मामला, आरसी-0262021ए0006 दर्ज की गई है, से उत्पन्न अपराध(धों) का अन्वेषण तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 08.04.2021 से) समस्त महाराष्ट्र राज्य में करती है।

[फा. सं. 228/28/2021-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 7th July, 2021

S.O. 446.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Maharashtra issued vide Order No. CBI 2021/CR 188/POL-2 dated 08.04.2021, Home Department, Mumbai, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 08.04.2021) to the whole State of Maharashtra for investigation into the offence(s) arising out of the complaint dated 06.04.2021 against S/Shri Dilip Kumar, Ashish Kumar and S.N. Rai, Inspectors, Income Tax, Mumbai, Maharashtra, Mumbai City under the Prevention of Corruption Act, 1988 (49 of 1988); based on which a CBI Case, RC-0262021A0006 has been registered on 08.04.2021 and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/28/2021-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 7 जुलाई, 2021

का.आ. 447.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए झारखंड राज्य सरकार, अधिसूचना सं. 10/सीबीआई/-403/2021-978 रांची, दिनांक 19.02.2021, गृह, कारा एवं आपदा प्रबंधन विभाग, रांची, के माध्यम से जारी सहमति से, श्री अभिजीत दास, क्षेत्र अभियंता (ई एवं एम), मुग्गा क्षेत्र, ईसीएल के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) के तहत दिनांक 10.02.2021 को की गई शिकायत, जिसके आधार पर दिनांक 20.02.2021 को एक सीबीआई मामला, आरसी-1(ए)/2021-डी दर्ज की गई

है, से उत्पन्न अपराध(धों) का अन्वेषण तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 20.02.2021 से) समस्त झारखंड राज्य में करती है।

[फा. सं. 228/29/2021-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 7th July, 2021

S.O. 447.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Jharkhand issued vide Notification No. 10/C.B.I.—403/2021-978 Ranchi dated 19.02.2021, Home, Prisons and Disaster Management Department, Ranchi, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 20.02.2021) to the whole State of Jharkhand for investigation into the offence(s) arising out of the complaint dated 10.02.2021 against Shri Abhijit Das, Area Engineer (E & M), Mugma Area, ECL under the Prevention of Corruption Act, 1988 (49 of 1988); based on which a CBI Case, RC-1(A)/2021-D has been registered on 20.02.2021 and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/29/2021-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 7 जुलाई, 2021

का.आ. 448.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उपधारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए महाराष्ट्र राज्य सरकार, आदेश सं. सीबीआई 2021/सीआर 22/पीओएल-2, दिनांक 20.01.2021, गृह विभाग, मुंबई, के माध्यम से जारी सहमति से, श्री ए.के. मिश्रा, कनिष्ठ अभियंता (स्थानापन्न एजीई), सैन्य इंजीनियरी सेवा, करंजा नौसेना स्टेशन, एनएडी, करंजा, रायगढ़ के विरुद्ध भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) के तहत दिनांक 12.01.2021 को की गई शिकायत, जिसके आधार पर दिनांक 20.01.2021 को एक सीबीआई मामला, आरसी-0262021ए0001 दर्ज की गई है, से उत्पन्न अपराध(धों) का अन्वेषण तथा ऐसे अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार (कार्योत्तर प्रभाव से दिनांक 20.01.2021 से) समस्त महाराष्ट्र राज्य में करती है।

[फा. सं. 228/30/2021-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 7th July, 2021

S.O. 448.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Maharashtra issued vide Order No. CBI 2021/CR 22/POL-2 dated 20.01.2021, Home Department, Mumbai, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 20.01.2021) to the whole State of Maharashtra for investigation into the offence(s) arising out of the complaint dated 12.01.2021 against Shri A.K. Mishra, Junior Engineer (officiating AGE), Military Engineering Services, Karanja Naval Station, NAD, Karanja, Raigad under the Prevention of Corruption Act, 1988 (49 of 1988); based on which a CBI Case, RC-0262021A0001 has been registered on

20.01.2021 and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/30/2021-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 7 जुलाई, 2021

का.आ. 449.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 5 की उप-धारा (1) सपठित धारा 6 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए गृह विभाग, मुंबई के आदेश सं. के.अ.ब्यूरो 2021/सीआर 239/पीओएल-2 दिनांक 20.05.2021 के माध्यम से जारी महाराष्ट्र राज्य सरकार की सहमति से संपदा प्रबंधक कार्यालय के अज्ञात अधिकारियों/कर्मचारियों को भ्रष्ट एवं अवैध तरीके से प्रभावित करने हेतु श्री संजय सानप, गैर सरकारी व्यक्ति के विरुद्ध दिनांक 12.5.2021 के शिकायत से उत्पन्न जिसके आधार पर भ्रष्टाचार निवारण अधिनियम, 1988 (1988 का 49) के तहत दिनांक 21.5.2021 को के.अ.ब्यूरो मामला सं. आरसी 0262021ए0008 दर्ज किया गया है, (दिनांक 21.5.2021 से कार्योत्तर प्रभावी) से उत्पन्न अपराध(धों) का अन्वेषण करने के लिए तथा ऐसे अपराध(धों) से जुड़े तथा/अथवा उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा एवं/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किसी अन्य अपराध का अन्वेषण करने के लिए दिल्ली विशेष पुलिस स्थापना के सदस्यों की शक्तियों और क्षेत्राधिकार का विस्तार समस्त महाराष्ट्र राज्य में करती है।

[फा. सं. 228/31/2021-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 7th July, 2021

S.O. 449.—In exercise of the powers conferred by sub-section (1) of section 5 read with section 6 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government with the consent of the State Government of Maharashtra issued vide Order No. CBI 2021/CR 239/POL-2 dated 20.05.2021, Home Department, Mumbai, hereby extends the powers and jurisdiction of the members of the Delhi Special Police Establishment (ex post facto w.e.f. 21.05.2021) to the whole State of Maharashtra for investigation into the offence(s) arising out of the complaint dated 12.05.2021 against Shri Sanjay Sanap, private person under the Prevention of Corruption Act, 1988 (49 of 1988) for influencing unknown officer/official of the office of the Estate Manager, Mumbai by corrupt or illegal means; based on which a CBI Case, RC-0262021A0008 has been registered on 21.05.2021 and any attempt, abetment and/or conspiracy, in relation to or in connection with such offence(s) and/or for any other offence committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/31/2021-AVD-II]

S. P. R. TRIPATHI, Under Secy.

नई दिल्ली, 7 जुलाई, 2021

का.आ. 450.—केन्द्र सरकार, एतद्वारा दिल्ली विशेष पुलिस स्थापना अधिनियम, 1946 (1946 का 25) की धारा 3 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए निम्नलिखित अपराधों, जिन का अन्वेषण दिल्ली विशेष पुलिस स्थापना के सदस्यों द्वारा भी किया जाने वाला है, को विनिर्दिष्ट करती है, नामतः :-

- (क) केरल पुलिस अधिनियम, 2011 (2011 की राज्य अधिनियम सं. 8) के अंतर्गत दण्डनीय अपराध;
- (ख) उपर्युक्त उल्लिखित अपराध(धों) से जुड़े या उससे संबद्ध किसी दुष्प्रयास, दुष्प्रेरणा और/अथवा षड्यंत्र एवं/अथवा उसी संव्यवहार में किए गए या उन्हीं तथ्यों से उत्पन्न किन्हीं अन्य अपराध(धों)।

[फा. सं. 228/09/2021-एवीडी-II]

एस. पी. आर. त्रिपाठी, अवर सचिव

New Delhi, the 7th July, 2021

S.O. 450.—In exercise of the powers conferred by Section 3 of the Delhi Special Police Establishment Act, 1946 (25 of 1946), the Central Government hereby specifies the following offences which are also to be investigated by the members of the Delhi Special Police Establishment, namely :-

- (a) Offences punishable under the Kerala Police Act, 2011 (State Act No. 8 of 2011);
- (b) any attempt, abetment and conspiracy in relation to or in connection with above mentioned offence(s) and/or for any other offence(s) committed in the course of the same transaction or arising out of the same facts.

[F. No. 228/09/2021-AVD-II]

S. P. R. TRIPATHI, Under Secy.

श्रम और रोजगार मंत्रालय

नई दिल्ली, 9 जुलाई, 2021

का.आ. 451.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार केनरा बैंक के प्रबंधन, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय नं. 2, नई दिल्ली के पंचाट (संदर्भ सं. 141/2015) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.07.2021 को प्राप्त हुआ था।

[सं. एल-12011/03/2015-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

MINISTRY OF LABOUR AND EMPLOYMENT

New Delhi, the 9th July, 2021

S.O. 451.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 141/2015) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court No. 2*, New Delhi as shown in the Annexure, in the industrial dispute between the management of Canara Bank, and their workmen, received by the Central Government on 09.07.2021.

[No. L-12011/03/2015-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, NEW DELHI

Present: Smt. Pranita Mohanty, Presiding Officer, C.G.I.T.-Cum-Labour

Court-II, New Delhi.

INDUSTRIAL DISPUTE CASE NO. 141/2015

Date of Passing Award- 16th June, 2021

Between:

The General Secretary,
Delhi Labour Union, Agarwal Bhawan,
G.T Road, Tis Hazari,
Delhi-110054.

... Workman

Versus

The General Manager,
Canara Bank, Circle Office, Nehru Place,
New Delhi.

... Management

Appearances:-

Shri Rajiv Agarwal (A/R) : For the Workman.

Shri Rajat Arora (A/R) : For the Management

AWARD

The Government of India in Ministry of Labour & Employment has referred the present dispute existing between employer i.e. the management of Canara Bank, and its workman/claimant herein, under clause (d) of sub section (1) and sub section (2A) of section 10 of the Industrial Dispute Act 1947 vide letter No. L- 12011/03/2015 (IR(B-II) dated 04.03.2015 to this tribunal for adjudication to the following effect.

“Whether the demand of the Union to provide Shri Virender Singh son of deceased workman Late Shri Ratan Singh, Daftri Employment on compassionate ground is legal and/or justified and, if yes what relief is the claimant entitled to and what directions are necessary in this respect?”

The claimant, in his claim statement has stated that his father late Ratan Singh was working as a Daftri in the Management Bank and he was a permanent employee of the Bank. On 10.11.2010, when he was posted in the Hari Nagar Branch died leaving behind his wife, two sons and a daughter. Since Late Ratan Singh was the sole bread earner of the family and none of his legal heirs were having any alternate source of income, his wife and mother of the claimant on 14.12.2010, submitted an application to the management Bank requesting appointment of her son Virender, present claimant, in the Bank on compassionate ground. But the Management of the Bank turned down the said request on the ground that the policy for compassionate appointment has been discontinued. Two communications dt 5.3.2011 and 25.5.2011 in this regard were received by the mother of the claimant. Since the family of the claimant were fully dependent on the income of his father Ratan Singh, and the management in an arbitrary manner rejected the prayer for compassionate appointment, the claimant and his family approached the Delhi Labour Union, which espoused the grievance and cause of the claimant. A demand notice was duly served on the management, but no response was received. The claimant thereafter raised a dispute before the Labour Commissioner Delhi, leading to a conciliation proceeding. The management of the Bank, though participated, no fruitful decision could be arrived for the adamant stand of the Bank. On failure of conciliation, the appropriate Government referred the matter to this Tribunal for adjudication on the legality of the refusal of the Bank for appointment of the claimant on compassionate ground.

The claimant has further stated that the Bank adopted a double standard in this regard as other persons standing in the same footing have been extended the benefit of compassionate appointment. Describing the decision of the Bank as illegal and unjustified, the claimant has prayed for a direction to the Bank for giving him compassionate appointment on any suitable post on regular basis with proper scale of pay.

The management Bank on receipt of notice entered appearance and filed a written statement refuting the claim of the claimant for compassionate appointment. It also challenged the maintainability of the proceeding on the grounds that the claimant is not a workman under the definition of sec 2(s) of the I D Act and the dispute is not an Industrial Dispute as defined u/s 2(k) of the Act. Management has also challenged the authority of the Delhi Labour Union to espouse the cause of the claimant as he is neither a member of that union nor the said union represents the employees of the Respondent Bank.

With regard to the claim for compassionate appointment, it has been stated that the Bank has a scheme for payment of lumpsum compensation in lieu of compassionate appointment brought into operation by way of Bank's circular 35/2005 dt 14.2.2005. Again by circular no 26/2/2007 dated 24.9.2007, the Bank brought some modifications wherein two exceptions were carved out for compassionate appointment. The application for compassionate appointment submitted by the wife of the ex-employee was considered and rightly rejected by the management as the claim was not meeting the criterion set out in the said circular. The family of the deceased employee was thus advised to submit the application for consideration of the same for grant of ex gratia. But the mother of the claimant did not submit the application within the time stipulated for the same. The management has therefore prayed for rejection of the claim.

In the rejoinder to the written statement filed by the claimant, it has been stated that for the purpose of compassionate appointment, the legal heir of the workman is a workman as per the definition given under the Act.

On these rival pleadings the following issues were framed by order dated 26.10.16 for adjudication.

ISSUES

1. Whether the demand of the union to provide Virender Singh s/o deceased daftari of the Bank, employment on compassionate ground is legal and/or justified? If so it's effect.
2. To what relief the workman is entitled to and from which date.

The claimant Virender Singh testified as ww1 and proved some documents marked in the series of Exht. WW1/1 to Exht. WW1/10. The documents include the copies of the demand notice served on the bank, claim petition filed before the labour commissioner, copy of the espousal by the union, copies of the representations filed before the management and the replies received from the Bank Management. The claimant also examined Surrender Bharadwaj the General Secretary of the Union which has espoused the cause of the claimant. He proved the letter of espousal as Exht WW1/4. On behalf of the Management Subodh Kumar Assistant General Manager testified as MW1 and proved the circulars /scheme of the Bank with regard to compassionate appointment and payment of lumpsum amount in lieu of such appointment. The documents were marked as Ext MW 1/1 to MW 1/2. All the witnesses were cross examined at length by the adversary.

FINDINGS

Issue No. 1

No separate issue relating to the maintainability of this proceeding has been framed. But the same can very well be dealt and decided in this issue. The maintainability of the present proceeding has been challenged by the management Bank on two grounds i.e the present dispute is not an Industrial Dispute and the claimant is not a workman.

It would be profitable to refer to sec 2(k) of the I D Act which reads:-

“Industrial Dispute means any dispute or difference between employer and employees, or between employer and workman, which is connected with the employment or non-employment or the terms of employment, or with the conditions of labour, of any person.”

This definition of sec 2(k) has three components and it refers to the (1) real or substantial dispute which includes employment or non employment, (2) terms of employment and (3) condition of labour of any person.

As far as the third part is considered the import of the words “any person” was considered by the Hon’ble SC in the case titled Workmen of **Dimakuchi Tea estate VS The management of Dimakuchi Tea Estate, AIR 1958 SC 853**, and it was held:-

“The crucial test is one community of interest and the person regarding whom dispute is raised must be one in whose employment, non employment, terms of employment or condition of labour, (as the case may be) the parties to the dispute have a direct or substantial interest. Whether such substantial interest has been established or not, will depend on the facts of that case”

Not only that in the case of **Anjilamma and Others vs Labour Court III, reported in 1995(2)ALT683**, The Hon’ble High Court of Andhra Pradesh have held that:-

“The legal heirs of a deceased workman can raise a dispute before the labour court disputing the termination of service as illegal u/s 2 A of the ID Act. It is not necessary that such legal heir should be a workman within the meaning of sec 2(s) of the ID Act.”

In the present case, the dispute is regarding the non-employment of the claimant, the legal heir of a deceased workman and the reference was made at the instance of the union espousing the cause of that workman which has been proved by the oral evidence of WW2 and the document marked Ext WW1/4. Hence it can be concluded that the claim raised by the claimant is certainly in the interest of other workmen and the proceeding is maintainable.

The other important question which needs to be answered in this proceeding is about the eligibility of the claimant for compassionate appointment in the Bank. The undisputed facts are that the claimant is the son of the deceased employee of the Bank working as a permanent employee in the post of Daftari. He died on 10.11.2010 and his wife within almost one month i.e on 14.12.2010, submitted an application requesting compassionate appointment her son, the claimant of the present proceeding. It is not disputed by the management that the said prayer of the widow of the claimant was rejected on the ground that the Bank has no such scheme for compassionate appointment in force and the previous scheme has been substituted by the scheme for grant of lumpsum financial grant.

The letter of request by the mother of the claimant and reply given by the Bank have been placed on record as Exht. WW1/7, WW1/8 and WW1/9. The Management in the WS has referred to two circulars of the Bank dated 14.2.2005 and 24.9.2007 and the witness examined on it’s behalf proved the said circulars along with the scheme for compassionate appointment as MW 1/1, MW1/2. On the basis of these circulars, the learned AR representing the Bank argued that the claimant having not fulfilled the criterion mentioned in the scheme and the related circular which is in force till now the Management had rightly rejected the prayer of the mother of the claimant. He also submitted that the circular dated 24.9.2007 has superseded the earlier circular of 14.2.2005 and the later circular has set out only two circumstances where compassionate appointment is possible. He also submitted that the said circular has been brought under operation keeping in view the business

objectives of the Bank as well as the social obligation towards the family of the employee dying in harness. Thus provision has been made for payment of lumpsum exgratia in lieu of compassionate appointment. He also drew the attention of the Tribunal to the document marked as Ext WW1/9 and WW1/10 to submit that the Bank had considered the case of the claimant sympathetically and advised for submission of application for payment of lumpsum exgratia. The mother of the claimant having not filed the application within the stipulated time of six months has also forfeited the claim for the same. With regard to the misery faced by the family for the untimely death of claimant's father he argued that the family is drawing a family pension paid by the Bank.

The learned AR for the claimant counter argued that the Bank has extended the benefit to the legal heirs of other employees who made the application later but refused the prayer of the claimant. No document or any other kind of evidence has been placed on record by the claimant to prove the same.

Perusal of the circulars and scheme for compassionate appointment filed by the Bank shows that prior to 24.9.2007, the scheme and circular dated 14.2.2005 was in force. According to the said scheme there was provision for compassionate appointment as well as payment of exgratia lumpsum amount, when an employee dies in harness. But the said scheme was brought under some change by the circular and scheme dated 24.9.2007, which has been made retrospectively applicable w.e.f 31.7.2004. According to this scheme, only the legal heirs of the employee dying while performing official duty, as a result of violence, terrorism, robbery or dacoity or the employee dying within five years of his first appointment or before reaching the age of 30 years whichever is later. The said scheme has the provision for grant of lumpsum exgratia subject to the eligibility prescribed under the scheme. All other conditions for grant of exgratia stipulated under the scheme dated 14.2.2005 remained unchanged. According to the said scheme of 2005, the application for exgratia need to be filed within six months from the death of the employee by his legal heirs. Thus the learned AR for the Bank argued that the claimant is neither entitled to compassionate appointment nor for grant of exgratia.

On a careful perusal of the scheme framed by the Indian Banks Association, it clearly appears that the claimant is not eligible for compassionate appointment, but is entitled to the payment of exgratia lumpsum amount. His eligibility has been admitted by the management in the written statement filed. It is also evident from the correspondence made by the Bank to the mother of the claimant marked as Exht. WW1/9 and WW1/10 that at one point of time Bank had advised her to file the application for consideration of the same. It is true that no application was filed within the time stipulated under the scheme. But the same will not put the claimant and his family into a disadvantageous position as the omission in filing the application cannot be viewed as intentional but for the pending claim for compassionate appointment and the hope for materialization of the same.

For the foregoing discussions it is held that the claimant is not entitled to the compassionate appointment as prayed by him. Issue no 1 is accordingly answered against the claimant.

Issue No. 2

The claimant has prayed for a direction to the Bank for his compassionate appointment for the untimely death of his father while in service of the Bank. But in the preceding paragraphs, while answering issue no 1 it has been held that the claimant is not entitled for the same.

In a catena of decisions including the case of Bharat Bank Ltd. Delhi VS Employees of Bharat Bank Ltd, it has been held that the scope of Industrial Adjudication is much wider than the adjudication before the common law courts. In the case of **Cawnpur Tannery VS Guha(1961)III.L.J110**, it has been held that the "The adjudication by the Industrial Dispute Act is only an alternative form of settlement of Industrial Dispute on a fair and just basis. The primary duty of the Industrial Tribunal is to establish peace between the employer and the workman. Any unfair action by the Management even against an individual workman might cast its shadow on the general body of workers who might get perturbed by such action. A resolution of the dispute might then become necessary for industrial peace".

Keeping the said principle in view it is felt proper that the benefit of exgratia lumpsum amount as per the scheme of 2007 be extended to the claimant notwithstanding the fact that the application for the same has not been filed within the stipulated time as the omission for the same was not deliberate but for the reason that the family was praying for the compassionate appointment and hoping for a favourable decision, On such application filed, the Bank shall pay the exgratia lumpsum amount as per the scheme to the legal heirs of the deceased employee Ratan Singh. This issue is accordingly answered. Hence, ordered.

ORDER

The reference be and the same is answered in favour of the claimant in part. The claimant is held not entitled to compassionate appointment as prayed for. But it is held that the legal heirs of the deceased employee Ratan Singh, who died on 10.11.2010. While working as a daftari in the Bank are entitled to payment of lumpsum exgratia amount as per the scheme of 2007, which was in force at the time of death of the employee. The claimant is thus directed to file the application for payment of exgratia before the Bank Management within

one month from the date of notification of this Award and the Management of the Bank shall complete the procedure for payment within two months failing which the amount payable shall carry interest @ 9% per annum from the date of passing the Award till final payment is made.

Consign the record as per Rule. Send a copy of this award to the appropriate government for notification as required under section 17 of the ID act 1947.

The reference is accordingly answered.

Dictated & Corrected by me.

PRANITA MOHANTY, Presiding Officer

नई दिल्ली 9 जुलाई, 2021

का.आ. 452.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 100/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.07.2021 को प्राप्त हुआ था।

[सं. एल-12011/65/2011-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 9th July, 2021

S.O. 452.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 100/2012) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court*, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of India, and their workmen, received by the Central Government on 09.07.2021.

[No.-L-12011/65/2011 IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/100/2012

Present: P. K. Srivastava, H.J.S. (Retd)

The General Secretary
Dainik Vetan Bhogi
Bank Karmachari Sangathan
CCentral Office, F-1, Karmbhoomi,
Tripti Vihar, Opp. Engineering College
Ujjain (M.P.)

... Workman

Versus

The Managing Director,
Bank of India,
Head Office, Star House,
Bandra Kurlae
Mumbai

...Management

AWARD

(Passed on this 25th day of June-2021)

As per letter dated 18/9/2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/65/2011-IR(B-II). The dispute under reference relates to:

“Whether the demand of the Union for payment of bonus for the period from 1995-96 to 2008-2009 in respect of Sh. Jagdish Parihar is just and proper? If yes, what relief the workman concerned is entitled to? .”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the sides have filed their respective claim/defense.

2. The case of the workman as stated in his statement of claim is that he was engaged by Management Bank as a daily wager on the post of peon under an oral order by the then Branch Manager on 23-11-1993 and remained engaged till 4-3-2009, when his engagement was discontinued without notice or compensation. He worked 240 days in every year. He is entitled for bonus as per law for the period he worked but the Management refused to pay him bonus. He raised a dispute before the Regional Commissioner. After failure of conciliation, the reference has been sent to this Tribunal for Award. Accordingly, it has been prayed that he be held entitled to bonus for the year 1995 to 1996 to 2008-2009.

3. The Management, in its statement of defence has rebutted the claim of applicant with a case that he was never engaged against any vacancy. He was not appointed as per Rules by a Competent Authority. He was simply a daily wager engaged on casual basis as and when required for bringing diesel for generator set, for washing the dirty linens, for which he was paid on daily basis. He is not a worker of the Management Bank nor there exists any relationship of worker and employer between the parties. He is not entitled to bonus. Accordingly, it has been prayed that the Award be answered against the workman.

4. Both the parties have filed photocopy of documents, and proved it, which will be referred to as and when required. Arguments of representative of applicant and learned counsel for the Management has been heard by me. I have also gone through the record.

5. **Following are the points for determination, in the case in hand:-**

1. **“Whether there is any relationship of workman and employer between the parties.”**
2. **“Whether the applicant is entitled to bonus as per Section 8 of Payment of Bonus Act, 1965.”**
3. **“Whether the workman is entitled to any other relief.”**

6. **POINT NO. 1:-**

In his statement of claim, claimant has pleaded that he was engaged as peon on daily wages. 2nd party in its written statement also contends that claimant was intermittently engaged on daily wages. Workman is defined under Section 2(s) of Industrial Disputes Act, 1947 as under:-

“workman” means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied, and for the purposes of any proceeding under this Act in relation to an industrial dispute, includes any such person who has been dismissed, discharged or retrenched in connection with, or as a consequence of, that dispute, or whose dismissal, discharge or retrenchment has led to that dispute, but does not include any such person-

1. **who is subject to the Air Force Act, 1950 (45 of 1950), or the Army Act, 1950 (46 of 1950), or the Navy Act, 1957 (62 of 1957); or**
2. **who is employed in the police service or as an officer or other employee of a prison, or**
3. **who is employed mainly in a managerial or administrative capacity, or**
4. **who, being employed in a supervisory capacity, draws wages exceeding one thousand six hundred rupees per mensem or exercises, either by the nature of the duties attached to the office or by reason of the powers vested in him, functions mainly of a managerial nature.**

7. In written statement filed by Management, any ground are not pleaded that claimant is taken out of scope of Section 2(s) as working daily wage peon is manual unskilled work. Workman in his evidence has stated that he was engaged as peon initially in 1st spell from 23-11-83 to 1990 and 2nd spell from 23-11-93 to 4-3-09. In his cross examination, he says he was working during leaving period of regular employees. For above reasons, I record my finding on Point No.1 in affirmative.

8. **POINT NO. 2:-**

Section 8 of Payment of Bonus Act, 1965 requires to be referred here which reads as follows:-

Section 8 in The Payment of Bonus Act, 1965:

Eligibility for bonus.—Every employee shall be entitled to be paid by his employer in an accounting year, bonus, in accordance with the provisions of this Act, provided he has worked in the establishment for not less than thirty working days in that year.

9. Hence the claim for eligibility of bonus, the workman has to prove firstly that he was employee of the management and secondly he worked in the Management for a period not less than 30 working days in a year.

10. **Section 2(13) defines employee for the purposes of the Act which reads as follows:-**

Section 2 (13) of the Principal Act states that, "employee" means any person (other than an apprentice) employed on a salary or wage not exceeding ten thousand rupees per mensem in any industry to do any skilled or unskilled manual, supervisory, managerial, administrative, technical or clerical work for hire or reward, whether the terms of employment be express or implied.

11. In the light of findings in point No.1, the applicant is held to be an employee for the purposes of Payment of Bonus Act, 1965.

12. Now the point which requires to be proved is whether the workman could successfully prove his employment for a period of not less than 30 days in a year for this, there is on record statement on oath of the workman which has been rebutted by statement of Management witness on oath. The workman has filed and proved some photocopy documents. It is worth mentioning here that some documents were sought by the workman to be summoned from the custody of Management but Management claimed that these documents were not available as these are old records.

13. The photocopy documents regarding payment of the workman are mainly payment vouchers which show payment for cleaning and fetching diesel on day to day basis but these documents taken together do not show that the workman was engaged for a period of more than 30 days in a year. Moreover, these photocopy documents are not from proper custody as the workman is not entitled to get these documents, hence the fact that the workman worked for a period of more than 30 days in any year to be eligible for bonus is held not proved on the basis of evidence on record. Accordingly the workman is held not entitled to the bonus claimed.

Point No. 2 is answered accordingly.

14. **POINT NO. 3:-**

On the basis of the findings above, the workman is held entitled to no relief and the reference deserves to be answered against the workman. Accordingly point No.3 is answered.

15. On the basis of the above discussion, following award is passed:-

A. The demand of the Union for payment of bonus for the period from 1995-96 to 2008-2009 in respect of Sh. Jagdish Parihar is not just and is improper. ."

B. The workman is held entitled to no relief.

16. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 जुलाई, 2021

का.आ. 453.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 56/2009) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.07.2021 को प्राप्त हुआ था।

[सं. एल-12011/155/2008-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 9th July, 2021

S.O. 453.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 56/2009) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of India, and their workmen, received by the Central Government on 09.07.2021.

[No. L-12011/155/2008-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR****NO. CGIT/LC/R/56/2009****Present:** P. K. Srivastava, H.J.S..(Retd)

The General Secretary
Prathadit Karmchari Kalyan Manch,
F-1, Tripti Vihar,
Opp. Engineering college
Ujjain (MP)

...Workman

Versus

The Branch Manager,
Bank of India
Mandsour Branch
Mandsour (MP)

...Management

AWARD**(Passed on this 30th day of June-2021)**

1. As per letter dated 26-3-2021 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No.L-12011/155/2008-IR(B-II). The dispute under reference relates to:

“Whether Shri Gopal Makwana is entitled for payment of difference of wages for the period from 17/2/97 to 24/7/01 as per Bipartite Settlement? What relief he is entitled to? .”

2. After registering the case on the basis of reference, notices were sent to the parties.

3. The case of the workman as stated in his statement of claim is that he was appointed as a daily wager on 17-2-1997 and since then he has been working till 24-7-2001, when he was dis-engaged by Management under oral orders. He used to work for eight hours in a day in the Branch and was earlier paid Rs.700/-per month which was increased from time to time. He raised a dispute regarding his illegal dis-engagement. The reference case in this respect is pending before this Tribunal. According to the workman the different Bi-Partite Settlements were enforce during the period of his engagement as mentioned in para-4 of the statement of claim, but he was not paid wages according to those Settlements, hence he is entitled to be paid the difference in wages and has accordingly claimed the difference of wages.

4. According, to the Management, the workman was employed as a daily wager for some hours, subject to contingency of work. He was paid on daily basis. He himself abandoned his engagement. The Bi-Partite Settlements regarding salary and pay are for regular employees of the Bank and not for daily wagers, hence the workman is not entitled to be paid any difference of wages, as claimed by him.

5. The workman has filed photocopy of documents which were not admitted by the Management. The Workman has also filed certified copy of his statement in the concerned reference case, certified copy of statement of Mahendra Singh in the concerned reference case, certified copy of reference in the concerned reference case, certified copy of order of Hon'ble High Court, Indore Bench. The Management has not filed any documents. None of the parties have examined any witness in support. Arguments of learned Counsel for Management Shri A.K.Shashi was heard through video conferencing. The workman has been absenting himself since dates. He was not present on the date of argument. He has not filed any written argument also.

6. The Reference is the point for determination, in the case in hand.
7. The certified copy of documents relating to the reference case are not relevant to the case in hand. The case of the Management is that Bi-Partite Settlement is applicable to the regular employees of the Bank and not to the daily wagers. No Rule has been shown or indicated by the workman that the settlement is applicable to the daily wagers also, hence in such circumstances, the workman is held not entitled to any difference of wages being a daily wager.
8. On the basis of the above discussion, following award is passed:-
- A. The workman Shri Gopal Makwana is not entitled for payment of difference of wages for the period from 17/2/97 to 24/7/01 as per Bipartite Settlement."**
- B. The workman is held entitled to no relief.**
9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 जुलाई, 2021

का.आ. 454.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार बैंक आफ इंडिया के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 139/2012) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.07.2021 को प्राप्त हुआ था।

[सं. एल-12011/36/2012-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 9th July 2021

S.O. 454.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 139/2012) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Bank of India, and their workmen, received by the Central Government on 09.07.2021.

[No. L-12011/36/2012-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/139/2012

Present: P. K. Srivastava, H.J.S..(Retd)

The Secretary,
Rashtriyakrit Bank Karmachari Sanghathan
Kendriya Karyalaya F-1, Tripti vihar
Opp. Engineering College,
Ujjain (M.P.)

... Workman

Versus

The Managing Director,
Bank of India, Head Office, Star House,
C-5, G-Block, Bandra Kurla Complex,
Bandra (E), Mumbai-51.

... Management

AWARD

(Passed on this 28th day of June-2021)

As per letter dated 3-12-2012 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No. L-12011/36/2012-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Bank of India in imposing the punishment of compulsory retirement on Shri Devendra Mehar Ex-Sub Staff w.e.f. 29-12-2009 is legal and justified? What relief the concerned is entitled to ?”

1. After registering the case on the basis of reference, notices were sent to the parties. Both the parties have filed their respective claim/defence.
2. The case of the workman as stated in his statement of claim is that he was first appointed on 23-12-1988 against the permanent vacancy of Peon and has been doing his job with sincerity and highest integrity. He was absent on 22-3-2007, 28-3-2007, 2-4-2007, 3-4-2007, 10-4-2007 to 13-4-2007 total eight days due to heart ailment. He furnished information regarding his absence by way of telephonic communication to the Branch Manager of the Branch. He was issued a show cause notice dated 17-4-2007. He filed a reply detailing the reasons of his absence. Again he was absent from duty on 21-4-2007 and 25-4-2007 to 30-4-2007 and 11-5-2007 to 30-5-2007, 1-6-2007 to 13-6-2007, 15-6-2007 to 29-6-2007. He explained his absence for this period also on the ground of his heart ailment along with treatment papers. He was never in receipt of any departmental charge sheet. An ex-parte departmental inquiry was conducted against him and he was held guilty of habitual, unauthorized and willful absence in an ex-parte manner. He did send a reply of the show cause notice on the inquiry report. He was issued the impugned punishment of compulsory retirement in an illegal manner, because the inquiry conducted was not according to law, rather it was against the principles of natural justice, as he was not participating in the inquiry. The Disciplinary authority did not consider his explanation in his show cause on inquiry report and passed impugned punishment which is against law. The Appellate authority also did the same mistake, as it also passed order dismissing the appeal without hearing the workman, hence according to the workman, the departmental inquiry was against law and justice. The charges were not proved and the punishment was dis-proportionate to the charges. Accordingly, the workman has prayed for his reinstatement with back wages and all consequential benefits, setting aside the impugned order of compulsory retirement.
3. The case of the Management is that the workman is habitual absentee. He remains absent without any cause, without getting the leave sanctioned. The details of his absence on various occasions mentioned in paragraph-5 of the written statement, which is as follows:-

S.No.	Period	Days
1.	22.3.2007 and 28-3-2007	2 days
2.	2.4.2007 to 3.4.2007	2 days
3.	10-4-2007 to 13-4-2007	4 days
4.	21-4-2007	1 day
5.	25-4-2007 to 30-4-2007	6 days
6.	11-5-2007	1 days
7.	3-5-2007	1 day
8.	1-6-2007	1 day
9.	11-6-2007 to 13-6-2007	3 days
10.	15-6-2007 to 29-6-2007	15 days
11.	7-8-2007	1 day
12.	22-8-2007	1 day
13.	28-8-2007 to 30-8-2007	3 days
14.	5-9-2007	1 day
15.	11-9-2007 to 13-9-2007	3 days
16.	17-9-2007	1 day
17.	20-9-2007 to 21-9-2007	2 days
18.	1-10-2007 to 3-10-2007	3 days
19.	8-10-2007 to 10-10-2007	3 days
20.	11-9-2007 to 13-9-2007	3days
21.	15-10-2007	1 day
22.	18-10-2007 to 19-10-2007	2 days
23.	23-10-2007	1 day
24.	31.10.2007 to 3-11-2007	4 days
25.	8-11-2007 to 15-11-2007	8 days
26.	17-11-2007 to 20-11-2007	4 days
27.	26-11-2007	1 day
28.	3-12-2007 to 12-12-2007	10 days
29.	20-12-2007 to 22-12-2007	3 days
30.	From 26-12-2007 till today	250 days continuously absent
	TOTAL	341 DAYS

4. The absence in total of 341 days for which he was issued show cause notices on as many as on five occasions, details given as follows in para-6 of the written statement:-

S. No.	Notice No.	Date
1.	Notice No. Freeganj/006	Dated 17-4-2007
2.	Notice No. Freeganj/054	Dated 13-8-2007
3.	Notice No. Freeganj/112	Dated 31-1-2008
4.	Notice No. Freeganj/070	Dated 26-7-2008
5.	Notice No. Freeganj/44	Dated 18-6-2008

5. He was issued charge sheet dated 1-9-2008 in this respect. The charge sheet was sent to his residential address, but he did not turn up, hence the inquiry proceeded ex-parte. After collection of evidence, the Inquiry Office held the workman guilty of habitual, unauthorized and willful absence which is misconduct in Bi-Partite-Settlement and keeping in view the length of his services, he was compulsory retired without any benefits. Accordingly, it is the case of the Management that the inquiry is proper and legal, charges have been proved and the sentence is also proportionate to the charges.

6. My learned Predecessor framed a preliminary issue which is as follows:-

“Whether the inquiry conducted against the workman is proper and legal?”

Hence answered it against the workman, vide order dated 16-2-2017, holding the inquiry proper and legal. **His this order is part of this Award.** Thereafter, following three additional issues were framed by my learned Predecessor.

1. **“Whether the misconduct alleged against workman is proved from evidence in Enquiry proceedings?”**
2. **“Whether the punishment of compulsory retirement imposed against the workman is legal and proper.?”**
3. **“If so, to what relief the workman is entitled to ?”**

7. I have heard arguments of both the sides and have perused the entire material available on record.

8. **ADDITIONAL ISSUE NO. 1:-**

The charges against the workman is of habitual, willful and unauthorized absence for the period as mentioned earlier in this judgment. The inquiry conducted though ex-parte against the workman, has been held legal and proper. From the perusal of the inquiry papers, proved during the inquiry the proceedings, it comes out that copy of attendance register, branch memo's of different dates were filed and proved along with the Management witness Sh. M.D.Gupta, Sh. S.K.Jain and Sh. J.S. Pandey supported the charge during the inquiry before the Inquiry Officer. On perusal of their on record statements and documents as referred to above, leads to a conclusion regarding proof of charges, hence the charges against the workman are held proved on the basis of the Inquiry Report.

Additional Issue No. 1 is decided accordingly.

9-ADDITIONAL ISSUE NO. 2:-

Now taking up the second issue, in the instant case the Inquiry Officer held the workman guilty of habitual, unauthorized and willful absence which is misconduct in Bi-Partite-Settlement and keeping in view the length of his services, he was compulsory retired without any benefit. Hon'ble the Apex Court and Hon'ble the High Court in various Judgments has been pleased to observe as under:-

9. **Hon'ble Apex Court in B.C. Chayurvedi v. Union of India, (1995) 6 SCC 749** while discussing about the scope of judicial review, in disciplinary matters, has observed as under:

“The High Court/Tribunal, while exercising the power of judicial review, cannot normally substitute its own conclusion on penalty and impose some other penalty. If the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the High Court/Tribunal, it would appropriately mould the relief, either directing the disciplinary/appellate authority to reconsider the penalty imposed, or to shorten the litigation, it may itself, in exceptional and rare cases, imposed appropriate punishment with cogent reasons in support thereof.”

In DG, RPF vs. Sai Babu (2003) 4 SCC 331, Hon'ble Apex Court has observed that:

"6..... Normally, the punishment imposed by a disciplinary authority should not be disturbed by the High Court or a tribunal except in appropriate cases that too only after reaching a conclusion that the punishment imposed is grossly or shockingly disproportionate, after examining all the relevant factors including the nature of charges proved against, the past conduct, penalty imposed earlier, the nature of duties assigned having due regard to their sensitiveness, exactness expected of an discipline required to be maintained, and the department/establishment which the delinquent person concerned works."

In United Commercial Bank vs. P.C. Kakkar (2003) 4 SCC 364 Hon'ble Apex Court on review of a long line of cases and the principles of judicial review of administrative action under English law summarized the legal position in the following words:

"11. The common thread running through in all these decisions is that the court should not interfere with the administrators' decision unless it was illogical or suffers from procedural impropriety or was shocking to the conscience of the court, in the sense that it was in defiance of logic or moral standards. In view of what has been stated in Wednesbury case the court would not go into the correctness of the choice made by the administrator open to him and the court should not substitute its decision to that of the administrator. The scope of judicial review is limited to the deficiency in decision-making process and not the decision."

12. To put it differently, unless the punishment imposed by the disciplinary authority or the appellate authority shocks the conscience of the court/tribunal, there is no scope for interference. Further, to shorten litigation it may, in exceptional and rare cases, impose appropriate punishment by recording cogent reasons in support thereof."

In Union of India vs. S.S. Ahluwalia (2007) 7 SCC 257 Hon'ble Supreme Court reiterated the legal position as follows:

"8. The scope of judicial review in the matter of imposition of penalty as a result of disciplinary proceedings is very limited. The court can interfere with the punishment only if it finds the same to be shockingly disproportionate to the charges found to be proved."

11. In State of Meghalaya v. Mecken Singh N. Marak (2008) 7 SCC 580 Hon'ble Supreme Court stated that:

"The punishment imposed by the disciplinary authority or the appellate authority unless shocking to the conscience of the court, cannot be subjected to judicial review."

12. Hon'ble Apex Court in Administrator, Union Territory of Dadra and Nagar Haveli vs. Gulbhia M. Lad (2010) 2 SCC (L&S) 101 has observed that

"The legal position is fairly well settled that while exercising the power of judicial review, the High Court or a Tribunal cannot interfere with the discretion exercised by the disciplinary authority, and/or on appeal the appellate authority with regard to the imposition of punishment unless such discretion suffers from illegality or material procedural irregularity or that would shock the conscience of the court/tribunal. The exercise of discretion in imposition of punishment by the disciplinary authority or appellate authority is dependent on host of factors such as gravity of misconduct, past conduct, the nature of duties assigned to the delinquent, responsibility of the position that the delinquent holds, previous penalty, if any, and the discipline required to be maintained in the department or establishment he works. Ordinarily the court or the tribunal would not substitute its opinion on reappraisal of facts."

13. Hon'ble Apex Court in (2011) 1 Supreme Court Cases (L&S) 721 has observed that:

"7. It is now well settled that the courts will not act as an appellate court and reassess the evidence led in the domestic enquiry, nor interfere on the ground that another view is possible on the material on record. If the inquiry has been fairly and properly held and the findings are based on evidence, the question of adequacy of the evidence or the reliable nature of the evidence will not be grounds for interfering with the findings in departmental enquiries. Therefore, the courts will not interfere with findings of fact recorded in departmental inquiries, except where such findings are based on no evidence or where they are clearly perverse. The test to find out perversity is to see whether a tribunal acting reasonably could have arrived at such conclusion or findings, on the material on record. The courts will however interfere with the findings in disciplinary matters, if principles of natural justice or statutory regulations have been violated or if the order is found to be arbitrary, capricious, mala fide or based on extraneous considerations."

14. On the basis of the aforesaid settled principles of law, the punishment of compulsory retirement cannot be held excessive to the charges, hence holding the punishment proportionate to the charge, **the Additional Issue No. 2 is decided against the workman.**

ADDITIONAL ISSUE NO. 3:-

15. On the basis of the findings recorded in Additional Issue No. 1 and No. 2, the workman is held entitled to no relief. **Issue No. 3 is also decided accordingly.**

16. On the basis of the above discussion, following award is passed:-

- A. **The action of the management of Bank of India in imposing the punishment of compulsory retirement on Shri Devendra Mehar, Ex-Sub Staff w.e.f. 29-12-2009 is held to be legal and proper.**
- B. **The workman is held entitled to no relief.**
- C. **No order as to costs.**

17. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 जुलाई, 2021

का.आ. 455.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 9/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.07.2021 को प्राप्त हुआ था।

[सं. एल-12012/90/2017-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 9th July, 2021

S.O. 455.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 9/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 09.07.2021.

[No. L-12012/90/2017 - IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

**BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT,
JABALPUR**

NO. CGIT/LC/R/9/2018

Present: P. K. Srivastava, H.J.S..(Retd)

Shri Sunil Kumar Raikwar
S/o Narayandas Raikwar
R/o MIG-17, Swagat Bungalow,
Nayapura, Kolar Road,
Bhopal (M.P.)

Versus

The Circle Head,
Punjab National Bank,
Zonal Office, HRD,
Arera Hills,
Bhopal (M.P.)

... Workman

...Management

AWARD**(Passed on this 22nd day of –June 2021)**

As per letter dated 6-2-2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section-10 of I.D.Act, 1947 as per Notification No. L-12012/90/2017-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Circle Head, Punjab National Bank, Bhopal in terminating the services of workman Shri Sunil Kumar Raikwar S/o Shri Narayandas Raikwar w.e.f. 11-9-2011 is just & proper? if not, what relief the workman concerned is entitled to ? .”

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The workman did appear and file his vakalatnama but never filed any statement of claim and absented himself thereon, hence the case was ordered to be proceeded ex-parte against the workman vide order dated 22-3-2021. The Management filed its statement of claim and affidavit of its witness Satyanarayana in evidence.
3. None appeared at the state of argument from the side of the workman, hence Shri A.K.Shashi, learned counsel for the Management was heard by me. I have gone through the record as well.
4. As it is the case of the Management in its written statement of defence, the workman was never appointed as per rules against any vacancy rather he was a daily wager engaged at local level according to immediate need and was paid on daily basis. He was not appointed against any vacancy. He was free to come and leave the work according to his wishes. He was never in continuous engagement for a period of more than 240 days, in the year preceding the date of his dis-engagement; hence his dis-engagement is not against law. Accordingly, Management has prayed for answering the reference against the workman.
5. The Management has supported this version by affidavit of its witness.
6. **The reference is the point for determination in the case in hand.**
7. It is settled principle of law that the burden to prove its case is on the person who alleges it, hence in the case in hand also the burden to prove his engagement on continuous basis for a period of 240 days in the year preceding the date of his dis-engagement is on the workman. He has not filed any statement of claim nor has he filed any evidence in support, hence holding that the case of the workman is not proved, the dis-engagement of the workman is held not against law and the workman is held entitled to no benefits. The reference deserves to be answered accordingly.
8. On the basis of the above discussion, following award is passed:-
 - A. **The action of the management of Circle Head, Punjab National Bank, Bhopal in terminating the services of workman Shri Sunil Kumar Raikwar S/o Shri Narayandas Raikwar w.e.f. 11-9-2011 is held to be legal & justified.**
 - B. **The workman is held entitled to no relief.**
9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 9 जुलाई, 2021

का.आ. 456.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार पंजाब नेशनल बैंक के प्रबंधतंत्र, संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय, जबलपुर के पंचाट (संदर्भ सं. 10/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 09.07.2021 को प्राप्त हुआ था।

[सं. एल-12012/91/2017-आई आर (बी-II)]

सीमा बंसल, अनुभाग अधिकारी

New Delhi, the 9th July, 2021

S.O. 456.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 10/2018) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court*, Jabalpur as shown in the Annexure, in the industrial dispute between the management of Punjab National Bank, and their workmen, received by the Central Government on 09.07.2021.

[No. L-12012/91/2017-IR(B-II)]

SEEMA BANSAL, Section Officer

ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT, JABALPUR

NO. CGIT/LC/R/10/2018

Present: P. K. Srivastava, H.J.S..(Retd)

Shri Mukesh Ahirwar
S/o Naval Singh Ahirwar
H.No.A-18, Shiv Shakti Nagar,
Chhola Road,
Bhopal (M.P.)

... Workman

Versus

The Circle Head,
Punjab National Bank,
Zonal Office, HRD,
Arera Hills,
Bhopal (M.P.)

... Management

AWAR D

(Passed on this 22ND day of June 2021)

As per letter dated 15-2-2018 by the Government of India, Ministry of Labour, New Delhi, the reference is received. The reference is made to this Tribunal under Section -10 of I.D.Act, 1947 as per Notification No. L-12012/91/2017-IR(B-II). The dispute under reference relates to:

“Whether the action of the management of Circle Head, Punjab National Bank, Bhopal in terminating the services of workman Shri Mukesh Ahirwar, S/o Shri Naval Singh Ahirwar w.e.f. 11-9-2011 is just & proper? if not, what relief the workman concerned is entitled to ? .”

1. After registering the case on the basis of reference, notices were sent to the parties.
2. The workman did appear and file his vakalatnama but never filed any statement of claim and absented himself thereon, hence the case was ordered to be proceeded ex-parte against the workman vide order dated 22-3-2021. The Management filed its statement of claim and affidavit of its witness Satyanarayana in evidence.
3. None appeared at the state of argument from the side of the workman, hence Shri A.K. Shashi, learned counsel for the Management was heard by me. I have gone through the record as well.
4. As it is the case of the Management in its written statement of defence, the workman was never appointed as per rules against any vacancy rather he was a daily wager engaged at local level according to immediate need and was paid on daily basis. He was not appointed against any vacancy. He was free to come and leave the work according to his wishes. He was never in continuous engagement for a period of more than 240 days, in the year preceding the date of his dis-engagement; hence his dis-engagement is not against law. Accordingly, Management has prayed for answering the reference against the workman.
5. The Management has supported this version by affidavit of its witness.
6. **The reference is the point for determination in the case in hand.**
7. It is settled principle of law that the burden to prove its case is on the person who alleges it, hence in the case in hand also the burden to prove his engagement on continuous basis for a period of 240 days in the year preceding the date of his dis-engagement is on the workman. He has not filed any statement of claim nor has he filed any evidence in support, hence holding that the case of the workman is not proved, the dis-

engagement of the workman is held not against law and the workman is held entitled to no benefits. The reference deserves to be answered accordingly.

8. On the basis of the above discussion, following award is passed:-

A. The action of the management of Circle Head, Punjab National Bank, Bhopal in terminating the services of workman Shri Mukesh Ahirwar S/O Shri Naval Singh Ahirwar w.e.f. 11-9-2011 is held to be legal & justified.

B. The workman is held entitled to no relief.

9. Let the copies of the award be sent to the Government of India, Ministry of Labour & Employment as per rules.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 12 जुलाई, 2021

का.आ. 457.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार मै. श्री सीमेंट लिमिटेड, पानीपत, कन्ट्रैक्टर श्री हवा सिंह पुत्र श्री कालू राम, पानीपत एवं कर्मकार श्री रोहताश पुत्र श्री सूरज सिंह, पानीपत के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण/श्रम न्यायालय सं. 2, चंडीगढ़ के पंचाट (संदर्भ सं. 13/2018) को प्रकाशित करती है जो केन्द्रीय सरकार को 12.07.2021 को प्राप्त हुआ था।

[सं. जेड-16025/4/2021-आई आर (एम)]

डी. के. हिमांशु, अवर सचिव

New Delhi, the 12th July, 2021

S.O. 457.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 13/2018) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court No 2, Chandigarh* as shown in the Annexure, in the industrial dispute between the management of M/s. Shree Cement Limited, Distt. Panipat; Contractor, Sh. Hawa Singh S/o Sh. Kalu Ram, Distt. Panipat and workman Shri Rohtas S/o Sh. Surat Singh, Panipat received by the Central Government on 12.07.2021.

[No. Z-16025/4/2021-IR(M)]

D. K. HIMANSHU, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: A. K. Singh, Presiding Officer.

Case No13/2018

Registered on:16.07.2018

Rohtash, S/o Surat Singh, R/o Vill, Khaukrana,
Tehsil & Distt. Panipat (Haryana), C/o Ajay Singh Rana
Adv. Bhartia Mazdoor Sang, Lal Bati, Panipat.

... Workman

Versus

1. M/s. Shree Cement Ltd. Vill, Khukrana, P.O. Assan, Distt. Panipat.
2. Contractor Hawa Singh S/o Sh. Kalu Ram,
R/o Vill. Khukrana, P.O. Assan, Distt. Panipat.

... Respondents/Managements

AWARD

Passed On:-12.04.2021

1. The workman Rohtash has directly filed statement of claim under Section 2-A of the Industrial Disputes Act, 1947 (hereinafter called the Act) for his reinstatement with full wages along with continuity of service and also along with other resultant benefits..

2. The brief facts relevant for deciding this claim petition is that the claimant/workman was appointed as Sweeper and was drawing Rs.8,100/- per month and worked from 01.02.2009 to 20.01.2018. The management terminated the service of the workman on 21.01.2018 without any reason or cause which is unlawful, arbitrary and against the principals of nature justice and in violation of Section 25-F of the ID Act, 1947. The workman has completed more than 240 days in a calendar year. The management also retained the juniors to the workman and the management has not adopted the mandatory provision of Section 25-H, Section 25-N and 25-G of the ID Act. It is therefore, prayed that the workman be reinstated in service with full wages along with continuity of service and also along with other resultant benefits.

3. Respondent No.1 i.e. M/s. Shree Cement Ltd. Vill, Khukrana, P.O. Assan, Distt. Panipat, has filed its written statement, alleging therein that the workman was appointed by the management on the post of Sweeper from 1.2.2009 to 20.1.2018 or any other date or at all. As per the contention made out by the real employer of the workman, he had left employment of his employer i.e. contractor M/s. Hawa Singh upon tendering resignation. It is denied that workman was drawing remuneration of Rs. 8,100/- per month from the answering management. It is further denied that the workman had worked for 240 days in a calendar year under the employment of answering management and the allegation of breach of canons of natural justice or arbitrary termination or non-compliance of section 25-F of Industrial Disputes Act, 1947. The answering management has not violated the provisions of Section 25-G, 25-H and 25-N of the Industrial Disputes Act, 1947. It is therefore respectfully prayed that that the workman is not entitled to claim any relief out of present reference and the statement of claim of the workman may kindly be dismissed with cost being devoid of merit and substance.

3. Respondent No. 2 Contractor Hawa Singh S/o Sh. Kalu Ram, R/o Vill. Khukrana, P.O. Assan, Distt. Panipat, has filed its written statement, alleging therein that the workman was employed only w.e.f. 12.05.2015 and not from 01.01.2010 at the site of respondent no.1. The contract with the principal employer i.e. respondent no.1 itself was awarded on 12.05.2015. The workman was engaged in cleaning work and was not employed as Sweeper. The workman was selected by respondent-contractor to work in the establishment of respondent no.1 and was deployed there and workman performed his duties under the direct supervision and control of respondent no.2 and the workman was also paid remuneration by respondent no.2. It is denied that the service of workman was terminated on 21.01.2018. The workman was not engaged against any post nor his services were terminated in violation of Section 25-F of ID Act, 1947. When the workman himself left employment, he cannot allege violation of Section 25-H, N and G of the ID Act, 1947. It is therefore, respectfully submitted that the reference is bad in law and workman is not entitled to seek any relief from the present reference and the workman is not entitled to any other relief of full wages or continuity of services or other resultant benefits.

4. During the pendency of the proceedings before this Tribunal, workman did not turn up at the stage of evidence and learned AR of the workman Sh. Sanjay stated on Oath that workman is not turning for the paravi of the case and in spite of the best effort, he could not be traced by him hence, award be passed accordingly.

5. Perusal of the file reveals that case is pending at the stage of the evidence of the workman for a long time but his whereabouts are not available with the learned AR, resulting the statement made by the learned AR for passing the award accordingly.

6. In view of the statement made by the learned AR of the workman, the case is dismissed as withdrawn. Since there is no adjudication of the case on merits as such, it would not preclude the workman from filing fresh case in accordance with Law.

7. Let copy of the award be sent to the Central Government for publication of the same as required under Section 17(2) of the Act.

A. K. SINGH, Presiding Officer

नई दिल्ली, 12 जुलाई, 2021

का.आ. 458.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण लखनऊ के पंचाट (संदर्भ संख्या 30/2011) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.07.2021 प्राप्त हुआ था।

[सं. एल-12025/01/2021-आई आर (बी-1)]

जी. गुहा, अवर सचिव

New Delhi, the 12th July, 2021

S.O. 458.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 30/2011) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 12.07.2021.

[No. L-12025/01/2021-IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL—CUM-LABOUR COURT
LUCKNOW****PRESENT : P. K. SRIVASTAVA, HJS (Retd.)****I.D. No. 30/2011****BETWEEN :**

1. Sunil Kumar Sharma S/o Shri Swayamvar Dayal Sharma
2. Tej Narayan Singh S/o Shri Gorakhnath Singh
3. Ravinder Kumar S/o Shri Bhondul Lal
4. Vinay Kumar S/o Shri Bajrangi Lal
5. Madan Lal S/o Shri Mohan Lal
6. Ram Sajeevan S/o Shri Ram Ujagar
7. Narender Nath Yadav S/o Shri Shiv Narayan
Through: - Parevz Alam
Mandal Sangathan Mantri, U.R. Karmchari Union
283/63 Kha, Garhi Kanora, (Premwati Nagar)
Po-Manak Nagar, Lucknow – 11.

Vs

1. Divisional Railway Manager
Northern Railway, DRM Office
Hazratganj, Lucknow.
2. Dy Chief Mechanical Engineer
Northern Railway, Carriage & Wagon shop
Alambagh, Lucknow.

AWARD

1. The applicants viz. Sunil Kumar Sharma & 06 others have filed present statement of claim, under section 2A (2) of the Industrial Disputes Act, 1947 (14 of 1947), for adjudication, before this CGIT-cum-Labour Court, Lucknow on 31.03.2011.

2. The case of the applicants, in brief, is that they had been appointed by the DRM, Lucknow vide letter dated 30.06.1995; and thereafter had been transferred to work under Dy Chief Mechanical Engineer, Northern Railway, Carriage & Wagon shop, Alambagh, Lucknow vide letter dated 30.06.1995. It has been stated that all the applicants had been promoted to the post of Helper Khallasi on the basis of their seniority; and they worked accordingly, upto 21.01.2000; however, it has been alleged by the applicants that their services had been terminated in an illegal manner w.e.f. 22.01.2000. The applicants agitated their termination before Hon'ble CAT, Lucknow Bench, Lucknow vide O.A. No. 124 of 2000; wherein the Hon'ble CAT, Lucknow vide its order dated 17.10.2003, cancelled the termination order dated 22.01.2000; and directed the respondents to pass a speaking order, after complying with the principles of natural justice. It has been submitted by the applicants that the management sought certain clarification from them, in compliance of order of the CAT, vide their letter dated 24/27-12-2003 and in response thereto the applicants sought certain documents from the management. It has been alleged by the applicants that the management neither made available the documents demanded by them; nor conducted any departmental inquiry; nor provided them opportunity for their defence; and again terminated their services w.e.f. 11/05/2004 in an illegal manner. It has been alleged by the applicants that they have not been given any notice or notice pay in lieu thereof, in violation to the provisions of Section 25 F of the

Act. The applicants have stated that they appeared before Regional Labour Commissioner (Central), Lucknow for conciliation on 28.06.2010; and when no settlement was arrived at between the parties, they submitted present statement of claim before this Tribunal for adjudication. Accordingly, the applicants have prayed that their termination be declared illegal and they be reinstated with all consequential benefits.

3. The management of the Northern Railway has disputed the claim of the applicants by filing its written statement; wherein it has taken preliminary objection that the claim of the applicants is barred by limitation as provided under Section 2A (3) of the Act. The management has stated that the applicants under adjudication, had never been appointed by the Railway at any point of time; rather they along with other hundreds of similar persons, joined the services under control of DRM, NR, Lucknow, under impression of a false and fabricated transfer letter, purported to be issued by different divisions/section of the railway; and on verification, when this scam was detected by the railway administration, their services had been terminated by the railway administration. It has been stated by the management that on preferring an Original Application before the Hon'ble CAT, Lucknow, the Hon'ble CAT directed the respondents to issue notice to all the applicants and after taking their reply into consideration, pass an appropriate and speaking order. The management has submitted that in compliance of order dated 17.10.2003 of the Hon'ble CAT, the workmen were issued show cause notice, followed by reminders and when no reply was received from workmen, final order, terminating their services, was issued in compliance of the directions of the Hon'ble CAT. It has been alleged by the management that since the applicants secured appointment under the railway management on the basis for fraud, fabrication and misrepresentation; therefore, their services had been terminated, after complying with the principles of natural justice; and their present claim is liable to be rejected being time barred, since raised after lapse of 07 years from the date of alleged termination; also the claim is devoid of any merit; hence, liable to be dismissed without any relief to the applicants.

4. The applicants have filed rejoinder; wherein they have reiterated the averments already made in the statement of claim.

5. The parties filed documents in support of their respective case and adduced oral evidence. The applicants viz. Tej Narayan Singh, Ravinder Kumar, Vinay Kumar and Narender Nath Yadav examined themselves; whereas the management examined Sri Prashant Rai, Sr. Personnel Officer, in support of its case. The parties availed opportunity to cross-examine the witnesses of each other apart from submitting oral submissions in support of their case.

6. Heard Shri Parvez Alam, authorized representative of the applicants and learned counsel for the management, Shri Umesh Kumar Bajpai, advocate at length and perused the entire evidence on record.

7. The representative of the applicants has argued that after being appointed by the DRM, Lucknow the applicants had been transferred to work under Dy Chief Mechanical Engineer, Northern Railway, Carriage & Wagon shop, Alambagh, Lucknow; and were promoted as Helper Khallasi on the basis of their seniority; however, their services had been terminated in an illegal manner w.e.f. 22.01.2000 without any notice or notice pay in lieu thereof, in violation to the provisions of Section 25 F of the Act. The representative of the applicants has argued that the management of the railways had been directed by the Hon'ble CAT, Lucknow, cancelling their termination order, to pass a speaking order, after complying with the principles of natural justice; however, the management failed to comply with the directions of the Hon'ble CAT and again terminated the services of workmen in an arbitrary manner. It had been submitted by the applicants's representative that they approached the Conciliation Officer for conciliation on 28.06.2010; and on failure thereof, submitted present statement of claim before this Tribunal for adjudication.

8. Per contra, the learned counsel for the management has argued that the claim of the applicants is barred by the provisions of the Section 2A (2) of the Act as it has been raised after lapse of 07 years from the date of alleged termination; moreover, he has vehemently contended that the applicants had never been appointed by the Railway at any point of time; rather they along with other hundreds of similar persons entered into the services of the opposite parties under impression of false and fabricated transfer letters; and on verification when their fraud had been detected, their services had been terminated by the railway administration. The learned counsel has further argued that in compliance of order dated 17.10.2003 of the Hon'ble CAT, applicants had been issued show cause notice; and when no reply was received from applicants, final order, terminating services of the applicants, was issued in compliance of the directions of the Hon'ble CAT. The learned counsel has further submitted that the applicants secured appointment under the railway management on the basis of fraud, fabrication and misrepresentation, therefore, their services had been terminated, after complying with the principles of natural justice, therefore, the claim of the applicants is liable to be rejected without any relief.

9. Having gone through rival pleadings of the parties and evidence relied upon by them, it is apparent on the face of record that the management of railway has taken preliminary objection, regarding maintainability of the present industrial dispute that it is barred by the period of limitation provided under Section 2A (3) of the Act; therefore, the preliminary objection regarding maintainability of the case is taken first before entering into the others issues, raised in the present industrial dispute.

The Section 14 (2) of the Industrial Disputes Act, 1947 reads as under:

- 2A. *Dismissal, etc., of an individual workman to be deemed to be an industrial dispute. – (1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*
- (2) *Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.*
- (3) *The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).*

Since the above quoted section itself provides limitation of three years; hence provisions of the Limitation Act do not apply in the case in hand. Moreover, as per pleadings of the applicants itself they had been terminated by the management of railways on 11.05.2004; however, they approached the Conciliation Officer of the Appropriate Government on 28.06.2010 i.e. after an admitted lapse of six years for which no justification had been given by the applicants. Hence, the present industrial dispute is held not maintainable as barred by limitation under provisions of section 2A (3) of the Act.

10. Accordingly, in light of above findings, the other issues, raised in the present industrial dispute by the parties, are not required to be discussed/adjudicated. The applicants are also subject to the payment of cost, quantified to Rs. 50,000/-, payable to the management of Railways.

11. Award as above.

LUCKNOW.

02nd March, 2021.

Let two copies of this award be sent to the Ministry for publication.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 12 जुलाई, 2021

का.आ. 459.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार उत्तर रेलवे प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, लखनऊ के पंचाट (संदर्भ संख्या 05/2013) को प्रकाशित करती है, जो केन्द्रीय सरकार को 12.07.2021 प्राप्त हुआ था।

[सं. एल-12025/01/2021-आई आर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 12th July, 2021

S.O. 459.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 05/2013) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court* Lucknow as shown in the Annexure, in the industrial dispute between the management of Northern Railway and their workmen, received by the Central Government on 12.07.2021.

[No. L-12025/01/2021-IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE**CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT LUCKNOW****PRESENT : P. K. SRIVASTAVA, HJS (Retd.)****I.D. No. 05/2013****BETWEEN :**

1. Ram Surat S/o Shri Prabhu
2. Karamchandra Verma S/o Shri Siddhnath Verma
3. Shiv Narayan Singh S/o Shri Krishna Pratap Singh
4. Rajbaksh S/o Shri Keshavram
5. Ramsaran Yadav S/o Late Jageshwar Prasad

Through: - Parevz Alam

Mandal Sangathan Mantri, U.R. Karmchari Union
283/63 Kha, Garhi Kanora, (Premwati Nagar)
Po-Manak Nagar, Lucknow – 11.

Vs

1. Divisional Railway Manager
Northern Railway, DRM Office
Hazratganj, Lucknow.
2. Dy Chief Mechanical Engineer
Northern Railway, Carriage & Wagon shop
Alambagh, Lucknow.

AWARD

1. The applicants viz. Ram Surat & 04 others have filed present statement of claim, under section 2A (2) of the Industrial Disputes Act, 1947 (14 of 1947), for adjudication, before this CGIT-cum-Labour Court, Lucknow on 28.01.2013.

2. The case of the applicants, in brief, is that they had been appointed by the DRM, Lucknow vide letter dated 30.06.1995; and thereafter had been transferred to work under Dy Chief Mechanical Engineer, Northern Railway, Carriage & Wagon shop, Alambagh, Lucknow. It has been stated that all the applicants had been promoted to the post of Helper Khallasi on the basis of their seniority; and they worked accordingly, upto 21.01.2000; however, it has been alleged by the applicants that their services had been terminated in an illegal manner w.e.f. 22.01.2000. The applicants agitated their termination before Hon'ble CAT, Lucknow Bench, Lucknow vide O.A. No. 124 of 2000; wherein the Hon'ble CAT, Lucknow vide its order dated 17.10.2003, cancelled the termination order dated 22.01.2000; and directed the respondents to pass a speaking order, after complying with the principles of natural justice. It has been submitted by the applicants that the management sought certain clarification from them, in compliance of order of the CAT, vide their letter dated 24/27-12-2003 and in response thereto the applicants sought certain documents from the management. It has been alleged by the applicants that the management neither made available the documents demanded by them; nor conducted any departmental inquiry; nor provided them opportunity for their defence; and again terminated their services w.e.f. 13/05/2004 in an illegal manner. It has been alleged by the applicants that they have not been given any notice or notice pay in lieu thereof, in violation to the provisions of Section 25 F of the Act. The applicants have stated that they appeared before Regional Labour Commissioner (Central), Lucknow for conciliation in year 2012; and when no settlement was arrived at between the parties, they submitted present statement of claim before this Tribunal for adjudication. Accordingly, the applicants have prayed that their termination be declared illegal and they be reinstated with all consequential benefits.

3. The management of the Northern Railway has disputed the claim of the applicants by filing its written statement; wherein it has taken preliminary objection that the claim of the applicants is barred by limitation as provided under Section 2A (3) of the Act. The management has stated that the applicants under adjudication, had never been appointed by the Railway at any point of time; rather they along with other hundreds of similar persons, joined the services under control of DRM, NR, Lucknow, under impression of a false and fabricated transfer letter, purported to be issued by different divisions/section of the railway; and on verification, when this scam was detected by the railway administration, their services had been terminated by the railway administration. It has been stated by the management that on preferring an Original Application before the Hon'ble CAT, Lucknow, the Hon'ble CAT directed the respondents to issue notice to all the applicants and after

taking their reply into consideration, pass an appropriate and speaking order. The management has submitted that in compliance of order dated 17.10.2003 of the Hon'ble CAT, the workmen were issued show cause notice, followed by reminders and when no reply was received from workmen, final order, terminating their services, was issued in compliance of the directions of the Hon'ble CAT. It has been alleged by the management that since the applicants secured appointment under the railway management on the basis for fraud, fabrication and misrepresentation; therefore, their services had been terminated, after complying with the principles of natural justice; and their present claim is liable to be rejected being time barred, since raised after lapse of 09 years from the date of alleged termination; also the claim is devoid of any merit; hence, liable to be dismissed without any relief to the applicants.

4. The applicants have filed rejoinder; wherein they have reiterated the averments already made in the statement of claim.

5. The parties filed documents in support of their respective case and adduced oral evidence. The applicant viz. Shiv Narayan Singh examined himself; whereas the management examined Sri Arun Sharma, Dy. Chief Personnel Officer, in support of its case. The parties availed opportunity to cross-examine the witnesses of each other apart from submitting oral submissions in support of their case.

6. Heard Shri Parvez Alam, authorized representative of the applicants and learned counsel for the management, Shri Umesh Kumar Bajpai, advocate at length and perused the entire evidence on record.

7. The representative of the applicants has argued that after being appointed by the DRM, Lucknow the applicants had been transferred to work under Dy Chief Mechanical Engineer, Northern Railway, Carriage & Wagon shop, Alambagh, Lucknow; and were promoted as Helper Khallasi on the basis of their seniority; however, their services had been terminated in an illegal manner w.e.f. 22.01.2000 without any notice or notice pay in lieu thereof, in violation to the provisions of Section 25 F of the Act. The representative of the applicants has argued that the management of the railways had been directed by the Hon'ble CAT, Lucknow, cancelling their termination order, to pass a speaking order, after complying with the principles of natural justice; however, the management failed to comply with the directions of the Hon'ble CAT and again terminated the services of workmen in an arbitrary manner. It had been submitted by the applicants's representative that they approached the Conciliation Officer for conciliation in the year 2012; and on failure thereof, submitted present statement of claim before this Tribunal for adjudication.

8. Per contra, the learned counsel for the management has argued that the claim of the applicants is barred by the provisions of the Section 2A (2) of the Act as it has been raised after lapse of 09 years from the date of alleged termination; moreover, he has vehemently contended that the applicants had never been appointed by the Railway at any point of time; rather they along with other hundreds of similar persons entered into the services of the opposite parties under impression of false and fabricated transfer letters; and on verification when their fraud had been detected, their services had been terminated by the railway administration. The learned counsel has further argued that in compliance of order dated 17.10.2003 of the Hon'ble CAT, applicants had been issued show cause notice; and when no reply was received from applicants, final order, terminating services of the applicants, was issued in compliance of the directions of the Hon'ble CAT. The learned counsel has further submitted that the applicants secured appointment under the railway management on the basis of fraud, fabrication and misrepresentation, therefore, their services had been terminated, after complying with the principles of natural justice, therefore, the claim of the applicants is liable to be rejected without any relief.

9. Having gone through rival pleadings of the parties and evidence relied upon by them, it is apparent on the face of record that the management of railway has taken preliminary objection, regarding maintainability of the present industrial dispute that it is barred by the period of limitation provided under Section 2A (3) of the Act; therefore, the preliminary objection regarding maintainability of the case is taken first before entering into the others issues, raised in the present industrial dispute.

The Section 14 (2) of the Industrial Disputes Act, 1947 reads as under:

- 2A. *Dismissal, etc., of an individual workman to be deemed to be an industrial dispute. – (1) Where any employer discharges, dismisses, retrenches or otherwise terminates the services of an individual workman, any dispute or difference between that workman and his employer connected with, or arising out of, such discharge, dismissal, retrenchment or termination shall be deemed to be an industrial dispute notwithstanding that no other workman nor any union of workmen is a party to the dispute.*
- (2) *Notwithstanding anything contained in section 10, any such workman as is specified in sub-section (1) may, make an application direct to the Labour Court or Tribunal for adjudication of the dispute referred to therein after the expiry of forty-five days from the date he has made the application to the Conciliation Officer of the appropriate government for conciliation of the dispute, and in receipt of such application the Labour Court or Tribunal shall have powers*

and jurisdiction to adjudicate upon the dispute, as if it were a dispute referred to it by the appropriate Government in accordance with the provisions of this Act and all the provisions of this Act shall apply in relation to such adjudication as they apply in relation to an industrial dispute referred to it by the appropriate Government.

- (3) *The application referred to in sub-section (2) shall be made to the Labour Court or Tribunal before the expiry of three years from the date of discharge, dismissal, retrenchment or otherwise termination of service as specified in sub-section (1).*

Since the above quoted section itself provides limitation of three years; hence provisions of the Limitation Act do not apply in the case in hand. Moreover, as per pleadings of the applicants itself they had been terminated by the management of railways on 13.05.2004; however, they approached the Conciliation Officer of the Appropriate Government in the year 2012 i.e. after an admitted lapse of approximately eight years for which no justification had been given by the applicants. Hence, the present industrial dispute is held not maintainable as barred by limitation under provisions of section 2A(3) of the Act.

10. Accordingly, in light of above findings, the other issues, raised in the present industrial dispute by the parties, are not required to be discussed/adjudicated. The applicants are also subject to the payment of cost, quantified to Rs. 50,000/-, payable to the management of Railways.

11. Award as above.

LUCKNOW.

02nd March, 2021

Let two copies of this award be sent to the Ministry for publication.

P. K. SRIVASTAVA, Presiding Officer

नई दिल्ली, 13 जुलाई, 2021

का.आ. 460.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सर्व हरियाणा ग्रामीण बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 चण्डीगढ़ के पंचाट (संदर्भ संख्या 73/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2021 प्राप्त हुआ था।

[सं. एल-12012/82/2014-आई आर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 13th July, 2021

S.O. 460.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 73/2014) of the *Cent.Govt.Indus.Tribunal-cum-Labour Court-II* Chandigarh as shown in the Annexure, in the industrial dispute between the management of Serve Haryana Gramin Bank and their workmen, received by the Central Government on 13.07.2021.

[No. L-12012/82/2014-IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A. K. Singh, Presiding Officer.

ID No.73/2014

Registered on:-02.02.2015

Bhupendra Singh, S/o Joginder Singh, R/o Village Gurbari,
Tehsil & District Palwal, Haryana.

... Workman

Versus

1. The Chairman, Serve Haryana Gramin Bank, H.O.-Near Bajrang Bhawan, Delhi Road, Rohtak.
 2. The Nodal/Regional Officer, Serve Haryana Gramin Bank, Pargati Bhawan, Sector-44, Gurgaon (HR).
 3. The Sr. Manager, Serve Haryana Gramin Bank,
Katreja, Palwal (Haryana).
- ...Respondent/Management

AWARD**Passed on:-03.03.2020**

Central Government vide Notification No. L-12012/82/2014-IR(B-I) dated 11.12.2014, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the Act), has referred the following Industrial disputes separately for each workmen related to the Department of Haryana Gramin Bank for adjudication to this Tribunal:-

“Whether the action of the management of Serve Haryana Gramin Bank(formerly known as Gurgaon Gramin Bank), Gurgaon in terminating the services of Sh. Bhupendra Singh, S/o Sh. Joginder Singh w.e.f. 05.12.2013 is valid, just and legal? If not, to what relief the concerned workman is entitled to and from which date?”

1. Both the parties were served with notices. The workman/claimant filed his statement of claim with the averment that he was appointed by the management as Peon w.e.f. 03.10.2008 on the payment of Rs. 280/- per day. Defendant/management had not provided any appointment letter or any other document using unfair labour practice. The defendant/management has obtained workman/claimant signature on some printed documents by saying that it shall be used as a record of service. The record of the workman/claimant is reserved in the contingency account section. The workman/claimant rendered his services with utmost honesty in spite of that, management began to harass him when the name of Gurgaon Gramin Bank is changed as Serve Haryana Gramin Bank. Ultimately, against the provision of Section 25-F of the Industrial Disputes Act, management retrenched the services of the workman/claimant on 05.12.2013 while he had worked more than 240 days on each calendar year before his retrenchment/termination. Claimant/workman worked upto 08.11.2008 under the Manager S.P. Narwal etc. Claimant/workman moved an application before the Assistant Labour Commissioner for conciliation but of no result. It is prayed that workman/claimant be ordered to be reappointed with all benefits with continuous service.

2. Management has filed its written statement, alleging therein that petition moved by claimant/workman is not maintainable because there is no Industrial Dispute between the parties. The claimant was never engaged as daily wages worker for regular work. It is stated that applicant/claimant was engaged as daily wagger by erstwhile Gurgaon Gramin Bank. Subsequently, the Gurgaon Gramin Bank with its Head Office at Gurgaon amalgamated with Haryana Gramin Bank which has its Head Office at Rohtak and a new entity has come into existence being known as Sarva Haryana Gramin Bank vide Notification dated 29.11.2013 of Govt. of India, Ministry of Finance. After the alleged amalgamation, respondent-management of Sarva Haryana Gramin Bank did not engage the applicant/workman as daily wagger. It is wrong to say that answering respondent harass the workman and forced to work. It is further stated that applicant/claimant is not entitled for any relief from the Hon'ble Tribunal because there is no dispute existed between the respondent-management and claimant/workman under the Industrial Disputes Act.

3. At the stage of evidence, learned counsel of workman Sh. Arun Kumar Batra orally stated that workman is not turning for contesting the case as such, he is unable to produce any evidence on behalf of the workman and made a statement in writing that he is withdrawing his authority as a workman-counsel from the case. The non-cooperation of the workman and withdrawal of the authority by the learned counsel of the workman Sh. Arun Kumar Batra Tribunal was forced to close the opportunity of the workman to adduce evidence resulting it a case of no evidence.

4. Learned counsel of the management Sh. Tarun Dhingra stated that there is no need for any evidence on behalf of the management because workman has not submitted any evidence orally and documentary to prove their illegal termination as alleged in the claim petition. Thus, management has also not adduced any oral or documentary evidence.

5. Heard the argument of the learned counsel of the management in the absence of workman and his counsel and perused the file.

6. The present reference is made by the Central Government, Ministry of Labour with respect to the action of the management of Sarve Haryana Gramin Bank regarding the validity and legality of the termination of the workman. The averments made by the workman in the claim petition reveal that he was appointed by the management for the post of Peon and neither appointment letter nor PF etc. were deposited by the management,

adopting the unfair labour practice. It is further alleged that after the change of nomenclature of Gurgaon Gramin Bank to Serve Haryana Gramin Bank, he was retrenched from service without any notice or retrenchment compensation in lieu of notice, violating the Section 25-F of the ID Act. But there is nothing on record either in the form of documentary or oral evidence to prove that there exist relationship of employer and employee between the management and workman and his services was illegally terminated.

7. Perusal of file reveals that concerned workman did not turn up for the paravi of the case for long time and case was pending for the evidence of the workman for last more than two years. It is pertinent to mention that it is not possible for Tribunal to proceed with the case in the absence of the workman as well as statement of the workman-counsel regarding the withdrawal of his authority as a workman-counsel.

8. In view of the above facts and statement made by the learned counsel of the workman, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim Award'. Since there is no adjudication of claim petition or case on merits as such, it would not preclude the workman from seeking fresh reference in accordance with Law.

9. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. K. SINGH, Presiding Officer

नई दिल्ली, 13 जुलाई, 2021

का.आ. 461.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार सर्व हरियाणा ग्रामीण बैंक प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 चण्डीगढ़ के पंचाट (संदर्भ संख्या 65/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2021 प्राप्त हुआ था।

[सं. एल-12012/66/2014-आई आर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 13th July, 2021

S.O. 461.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 65/2014) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court -II Chandigarh* as shown in the Annexure, in the industrial dispute between the management of Serve Haryana Gramin Bank and their workmen, received by the Central Government on 13.07.2021.

[No. L-12012/66/2014-IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE

IN THE CNTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A. K. Singh, Presiding Officer.

ID No. 65/2014

Registered on:-02.02.2015

Padam Singh S/o Babu Lal, R/o Village Vijaygarh,
Tehsil Todal, District Palwal, Haryana.

... Workman

Versus

1. The Chairman, Serve Haryana Gramin Bank, H.O.-Near Bajrang Bhawan, Delhi Road, Rohtak.
2. The Nodal/Regional Officer, Serve Haryana Gramin Bank, Pargati Bhawan, Sector-44, Gurgaon (HR).
3. The Sr. Manager, Serve Haryana Gramin Bank,
Branch Bhagpur, Palwal (Haryana).

... Respondent/Management

AWARD

Passed on:- 03.03.2020

Central Government vide Notification No. L-12012/66/2014-IR(B-I) dated 05.12.2014 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 (hereinafter called the

Act), has referred the following Industrial disputes separately for each workmen related to the Department of Haryana Gramin Bank for adjudication to this Tribunal:-

“Whether the action of the management of Serve Haryana Gramin Bank (formerly known as Gurgaon Gramin Bank), Gurgaon in terminating the services of Shri Padam Singh, S/o Shri Babu Lal w.e.f. 05.12.2013 is valid, just and legal? If not, to what relief the concerned workman is entitled to and from which date?”

1. Both the parties were served with notices. The workman/claimant filed his statement of claim with the averment that he was appointed by the management as Peon w.e.f. 01.06.2008 on the payment of Rs.280/- per day. Defendant/management had not provided any appointment letter or any other document using unfair labour practice. The defendant/management have obtained workman/claimant signature on some printed documents by saying that it shall be used as a record of service. The record of the workman/claimant is reserved in the contingency account section. The workman/claimant rendered his services with utmost honesty in spite of that, management began to harass him when the name of Gurgaon Gramin Bank is changed as Serve Haryana Gramin Bank. Ultimately, against the provision of Section 25-F of the Industrial Disputes Act, management retrenched the services of the workman/claimant on 05.12.2013 while he had worked more than 240 days on each calendar year before his retrenchment/termination. Claimant/workman worked upto 14.04.2011 under the Manager I.P. Sharma etc. Claimant/workman moved an application before the Assistant Labour Commissioner for conciliation but of no result. It is prayed that workman/claimant be ordered to be reappointed with all benefits with continuous service.

2. Management has filed its written statement, alleging therein that petition moved by claimant/workman is not maintainable because there is no Industrial Dispute between the parties. The claimant was never engaged as daily wages worker for regular work. It is stated that applicant/claimant was engaged as daily wagger by erstwhile Gurgaon Gramin Bank. Subsequently, the Gurgaon Gramin Bank with its Head Office at Gurgaon amalgamated with Haryana Gramin Bank which has its Head Office at Rohtak and a new entity has come into existence being known as Sarva Haryana Gramin Bank vide Notification dated 29.11.2013 of Govt. of India, Ministry of Finance. After the alleged amalgamation, respondent-management of Sarva Haryana Gramin Bank did not engage the applicant/workman as daily wagger. It is wrong to say that answering respondent harass the workman and forced to work. It is further stated that applicant/claimant is not entitled for any relief from the Hon'ble Tribunal because there is no dispute existed between the respondent-management and claimant/workman under the Industrial Disputes Act.

3. At the stage of evidence, learned counsel of workman Sh. Arun Kumar Batra orally stated that workman is not turning for contesting the case as such, he is unable to produce any evidence on behalf of the workman and made a statement in writing that he is withdrawing his authority as a workman-counsel from the case. The non-cooperation of the workman and withdrawal of the authority by the learned counsel of the workman Sh. Arun Kumar Batra Tribunal was forced to close the opportunity of the workman to adduce evidence, resulting it a case of no evidence.

4. Learned counsel of the management Sh. Tarun Dhingra stated that there is no need for any evidence on behalf of the management because workman has not submitted any evidence orally and documentary to prove his illegal termination as alleged in the claim petition. Thus, management has also not adduced any oral or documentary evidence.

5. Heard the argument of the learned counsel of the management in the absence of workman and his counsel and perused the file.

6. The present reference is made by the Central Government, Ministry of Labour with respect to the action of the management of Sarve Haryana Gramin Bank regarding the validity and legality of the termination of the workman. The averments made by the workman in the claim petition reveal that he was appointed by the management for the post of Peon and neither appointment letter nor PF etc. were deposited by the management, adopting the unfair labour practice. It is further alleged that after the change of nomenclature of Gurgaon Gramin Bank to Serve Haryana Gramin Bank, he was retrenched from service without any notice or retrenchment compensation in lieu of notice, violating the Section 25-F of the ID Act. But there is nothing on record either in the form of documentary or oral evidence to prove that there exist relationship of employer and employee between the management and workman and his services was illegally terminated.

7. Perusal of file reveals that concerned workman did not turn up for the paravi of the case for long time and case was pending for the evidence of the workman for last more than two years. It is pertinent to mention that it is not possible for Tribunal to proceed with the case in the absence of the workman as well as statement of the workman-counsel regarding the withdrawal of his authority as a workman-counsel.

8. In view of the above facts and statement made by the learned counsel of the workman, this Tribunal is left with no choice, except to pass a 'No Dispute/Claim Award'. Since there is no adjudication of claim petition

or case on merits as such, it would not preclude the workman from seeking fresh reference in accordance with Law.

9. Let this award be sent to the appropriate Government, as required under Section 17 of the Industrial Disputes Act, 1947, for publication.

A. K. SINGH, Presiding Officer

नई दिल्ली, 13 जुलाई, 2021

का.आ. 462.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला प्रबंध तंत्र के संबद्ध नियोजकों और उनके कर्मकारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 चण्डीगढ़ के पंचाट (संदर्भ संख्या 3/2015) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2021 प्राप्त हुआ था।

[सं. एल-12011/25/2015-आई आर (बी.-1)]

डी. गुहा, अवर सचिव

New Delhi, the 13th July, 2021

S.O. 462.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 3/2015) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court -II Chandigarh* as shown in the Annexure, in the industrial dispute between the management of State Bank of Patiala and their workmen, received by the Central Government on 13.07.2021.

[No. L-12011/25/2015-IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE

IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II, CHANDIGARH

Present: Sh. A. K. Singh, Presiding Officer.

ID No. 3/2015

Registered on:-6.5.2015

Banking Numainda Association Reg. (Punjab) H.O. VPO Rangian,
Tehsil Dhuri, Distt. Sangrur.

... Workman

Versus

1. The Managing Director, State Bank of Patiala the Mall Patiala.

2. The General Manager, State Bank of Patiala, the Mall Patiala.

... Respondents/Managements

AWARD

Passed on:-12.04.2021

Central Government vide Notification No. L-12011/25/2015-IR(B-I) Dated 21.04.2015, under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947(hereinafter called the Act), has referred the following Industrial dispute for adjudication to this Tribunal:-

“Whether the demands of the business correspondents (As per list enclosed) working as service providers in the State Bank of Patiala that they are entitled for regularization of services and to pay scales, allowances and other service conditions available to regular employees of banks is justified? If not, what relief the claimant is entitled to and from which date?”

1. Both the parties were put to notice and workmen filed their statement of claim, alleging therein that in pursuance of the meeting of the Executive Body of the Union on 17.09.2013, it has been decided to file demand notice and contest a case with respect to the regularization of workers who are working against the perennial nature of job must be regularized as per the Government policy. It is alleged that vide Government policy, workers who are working for the last 3 years must be regularized immediately and policy of employing workmen through contractors should be abolished. In pursuance of the instruction bearing No.11/34/2000-4P.P.3/5351 dated 28.03.2003 of Punjab Government and subsequent instruction bearing No.15/53/2005-

4ppIII/18721 dated 15.12.2006 of Punjab Government, the respondent-management has not complied the directions and no steps has been taken to regularize the service of the workers list attached with the claim statement. It is further alleged that the present practice is weak for the last so many years of getting the blank papers signed from the workmen and engaging them on job work by drafting unfair labour practice without giving regular pay scale for the non-job basis. The members and the union have been illegally terminated by the management as such, they should be reinstated in service with all consequential benefits and back wages. The demand mentioned in the claim petition relates to the equal pay for the job being done by the regular workers, compliance of Employees Provident Fund and Employees Insurance Act benefits, arrear of minimum wages, medical allowances, uniform allowances, washing allowances, electricity using bills, stationary amount, transport allowances which are required to be given to the workmen. It is alleged that the claimants are entitled to regularize the service and also entitled for minimum wages as per Central Government Notification and other demand along with interest upon the arrears of minimum wages as well as other dues @ 24% per annum.

2. Respondent management-State Bank of Patiala has filed its written statement, alleging therein that the present reference raised by the Vice President of Banking Numainda Association Reg.(Punjab), VPO Rangan, Tehsil Dhuri District Sangarur others deserves to be dismissed on the ground that they have no locus standi to raise the same as the respondent-management have engaged Banking Correspondents (BCs) i.e. the petitioners namely Balwinder Singh and others as Service Providers and not as its employees as per specific agreement executed between the service providers and the respondent-management. An agreement was executed between the petitioners and the respondent-bank wherein it has been specifically mentioned that there is no relationship of employer and employees ever existed between the respondent-bank and the petitioners, therefore, the present reference deserves to be dismissed on this ground alone. There was no privity of contract in regard to any matter whatsoever between the petitioners and the respondent-bank. The factual position of the case is that since the respondent-bank was desirous of availing the services of the claimants-petitioners to facilitate its business growth, the claimants-workmen had offered to provide services as and when may be required by the respondent-bank. Appointment letter was issued to the claimants-workmen copy of which is Annexure R-1. Claimants/workmen were asked to complete all the formalities as required in their appointment letters. As per their appointment letters, an agreement was also executed between the petitioners and the respondent-bank copy of which is enclosed as Annexure R-2. It is further alleged that the terms and conditions mentioned in the application as well as appointment letter executed and issued between the parties specifically reveals that the workmen/claimants are engaged as banking correspondents(BCs) and service provider and not the employee of the respondent-bank. Therefore, the present reference deserves to be dismissed. On merit, it is alleged that the facts alleged in Para 1 of the claim statement is misconceived, misstated, wrong and emphatically denied as per Clause 4.1 and 4.2 of the agreement, respondent-bank has no relation of employer and employees as alleged agreement does not create any such relations as such, the claimants/workmen cannot claim regularization whatsoever from the respondent-bank. Respondent-management has never indulged in unfair labour practice as alleged in the claim petition, in fact claimants are not the employees of the respondent-management and they are engaged as service provider as such, the demand of equal pay does not arise. Similarly, since the claimants/workmen are not the employees of the respondent-bank and are engaged as service provider so the question of PF and ESI does not arise. As per terms and conditions of their engagement, the claimants/workmen has to withdraw minimum wages Rs.5,500/- per month or actual commission which is higher for initial 6 months and after 6 months position has to be reviewed. Since their remuneration is based on the commission basis therefore, the Minimum Wages Act is not applicable. The question of medical allowance, uniform allowance, washing allowance, electricity using bills, statutory allowance, transport allowance also stand on same footing because their engagement as service provider on contractual basis they are not entitled to any such relief claimed as per the terms and conditions of their engagement in the claim statement. It is therefore respectfully prayed that the present reference may kindly be dismissed along with cost in the interest of natural justice, equity and fair play.

3. Claimants/workmen have submitted their replication, alleging therein that claimants falls within the definition of Section 2-S of the Industrial Disputes Act, 1947 and they have been appointed as business correspondence not as service provider as alleged in the written statement. In fact, respondent-management comes within the definition of “industry” and law laid down in so many cases by the Hon’ble Supreme Court even an employee who is government-servant and holding public post, shall be entitled for the minimum wages prescribed under the Act and all other benefits including the over time. In fact the claimants/workmen are drawing wages an amount of Rs.1,000/- per month instead of Rs.5,500/- as alleged in the written statement. Remaining facts are the same which are alleged in the claim statement as such, need not to be repeated again.

4. In order to prove the facts alleged in the claim statement, Vice President of the Union Balwinder Singh has submitted his affidavit as Ex.WW1. This witness has been cross-examined by the learned counsel of the respondent-bank. Balwinder Singh has stated that he has filed this claim petition on behalf of him and 89 other claimants in pursuance of the Government policy on the basis of resolution passed in the general meeting to raise the dispute on behalf of co-workers. The photocopy of the resolution is on record and he has been authorized by the Union to file this claim petition before this Tribunal. According to this witness, he has been

appointed as business correspondence vide appointment letter dated 19.08.2011 not as service provider on 1.9.2011. He has executed agreement dated 1.9.2011 with the management which bears his signature. This witness has further stated that he knew the terms and conditions mentioned therein as annexure in the file. Witness Balwinder Singh has further stated that last agreement was executed on 25.08.2011 which also bears his signatures knowing the terms and conditions in the agreement. This witness has accepted the suggestion made by the learned counsel of the management that he has appointed for bank service in the village Rangian Tehsil Dhuri District Sangarur as business correspondence.

5. Respondent-management bank has submitted the affidavit of witness Kanwar Jeet Singh, Manager State Bank of Patiala, who has submitted and proved his affidavit as Ex.MW1/A along with documents Ex.MW1/1 and agreement for the year 2011, Ex.MW1/2 agreement for the year 2017 and letter of appointment Ex.MW1/3 in order to prove the facts alleged in the written statement. During the course of cross-examination, this witness has stated that he has not come with the agreement pertaining to the year 2012 to 2016. This witness has expressed his inability to tell about the mode of payment to the claimants/workmen by the bank. As per this witness records maintained by the workmen were checked and audited by the bank-officials.

6. I have heard Sh. M.R. Dhiman, AR of claimants/workmen and Sh. S.K. Gupta, Ld. Counsel for the management and perused the file and documents on record carefully.

7. Learned AR of the claimants/workmen Sh. M.R. Dhiman contended that claimants/workmen were rendering their services for last so many years with utmost dedication and responsibility to the satisfaction of the respondent-bank management as such, they have been invested their hard money and time only with legitimate expectation of their service shall continue with the respondent-management bank but respondent-management bank did not extend the contract after the year 2017 without affording the opportunity of hearing as well as non-complying the provisions of the Industrial Disputes Act, 1947. The learned AR further contended that as per the terms of the agreement, they were engaged as service provider but an advertisement was made with respect to the engagement of business correspondence by the bank-management. According to the learned AR, if the veil is lifted to find out the engagement of workmen, it reveals, for all purposes, that workmen were working under the direct control of the bank and were discharging the same duties which were discharged by the regularly recruited employees of the bank. Thus, there exists relationship of employer and employee between the management-bank and claimants. Learned AR further argued that workmen were rendering all those services which regular employees used to render with the bank as such, they are entitled not only for regularization but also all the allowances along with equal pay to the corresponding bank employees.

8. Learned counsel of the respondent-management bank contended that statement of claim filed by the claimants/workmen through their Vice President/Secretary Balwinder Singh with concealment of material facts and misstatement in not disclosing the factum of advertisement, interviews, modes and manner of appointments, date of appointments and terms and conditions of the appointment as well as their employment after executing the agreement between the parties. It is also contended that agreement entered into the parties pertains to arbitration clause and thus, the dispute if any, the workers-union are under legal obligation to go in arbitration stipulated in the contract. Thus, the claim petition preferred by the workmen in pursuance of the reference is not maintainable. According to the learned counsel of the respondent-bank, there was no master and servant/employer and employee relationship existed between the parties and contract for service entered into between the parties have come to an end as such, respondent could not be directed to continue with the agreement along with regularization and basic allowances and other service conditions available to the regular employee of the bank. Learned counsel further contended that Clause 4 of the agreement provides for the relationship between the parties engaged as independent service provider and they were never intended to be agent of the bank except in respect of transaction/services which give rise to principle agent relationship by implication. So far as the payment of fee and salary is concerned, Clause 3(1) of the agreement, it is alleged that they shall be paid fee or commission and payment in the manner, details given in Schedule B subject to deduction of income tax, wherever required under the income tax and other taxes has to be borne by the service provider and bank shall not be for the same. Learned counsel further submitted that the procedure adopted for the SPs in no manner cadre and thus, they are not liable for any relief claimed. Learned counsel has placed reliance in the cases of Banking Business Facilitators Vs. The Chairman State Bank of India & Ors., arising out of the Letters Patent Appeal No. 1274/2015, decided on 30.11.2016, and Akhil Raj Rajya Hand Pump Mistries Sanghathan & Anr. Vs. State of Rajasthan & Ors.' 1994(1) WLC 1, as well as in the case of State Bank of India through its Chairman Vs. Ashish Kumar & Ors., arising out in Writ petition No. 1063/2018, decided on 28.11.2018.

9. Undisputedly, going through the facts alleged in the claim petition, it can be out rightly observed that this has been poorly drafted without mentioning anything with respect to the advertisement, process of selection, date of selection, appointment letters, execution of agreement between the parties, etc. Legally speaking claimants have nothing stated with respect to the above mentioned facts as such, it lacks initial requirement for a legal and equitable decision and the claim petition is liable to be thrown out on this ground alone because nothing has to be find out beyond the pleadings. But the facts alleged in the written statement as

well as documents filed by the respondent-bank in the form of appointment letters, agreements and oral submissions made by the AR of workmen as well as learned counsel for the respondent-bank makes it clear that they have been appointed in the year 2011 in pursuance of the advertisement as service provider on terms and conditions mentioned in the agreement executed in the year 2011 and continued to work till the period mentioned in the agreement executed in the year 2017. Thus, the engagement of the claimants/workmen by the management as service provider on terms and conditions mentioned in the agreement as well as appointment letters and admitted by the Secretary of the Union Balwinder Singh is suffice to give award on merit as is referred by the Central Government for adjudication.

10. The agreement entered into between the workmen as well as management-bank provides for various details including scope of service, the duties of service provider maintaining record by SPs monitoring/inspection by the bank confidential records of the parties, payment, termination and other relevant aspects. The perusal of clauses of the agreements which deals with the relations of the parties is as under:-

“6.1 It is specifically agreed that the SP shall act as independent service provider and shall not be deemed to be the Agent of the Bank except in respect of the transactions/services which give rise to Principal Agent relationship by implication.

6.2 Neither SP nor its employees, agents, representatives, Sub-Contractors shall hold out or represent as agents of the Bank. None of the employees, representatives or agents of SP shall be entitled to claim permanent absorption or any other claim or benefit against the Bank.”

11. It is true that in pursuance of the advertisement issued by the appellant-Bank inviting applications from eligible candidates, the claimants applied for selection as BCs and on being declared successful in interview, were engaged as service provider by executing the agreement. But then, a bare perusal of the agreement executed between the claimants individually and the appellant-Bank makes it abundantly clear that they were engaged as SP and not as contractual employees. The nature of services to be provided by the SP engaged as aforesaid was also specified in clause 1.2 of agreement. It cannot be disputed that some of the duties casted upon the SPs engaged are akin to the duties performed by the employees of the Bank but on that account their engagement as SPs shall not stand converted into the engagement as contractual employees of the Bank.

12. As a matter of fact, the relationship between the parties to the agreement has also been specifically dealt with under Clause 6 of the agreement, which makes it plain that the SP shall act as independent service provider and shall not be deemed to be the agent of the Bank except in respect of transactions/service which given rise to principal Agent relationship by implications. SP has been cautioned not to hold out or represent himself/herself as agent or employees of the Bank. Further, it was also specially provided that the SP shall not be entitled to claim permanent absorption or any other claim or benefit against the Bank. Under Clause 7 of the agreement, the responsibility of complying with the provisions of all applicable laws concerning or in relation to rendering of services by SP envisaged under the agreement has also been fastened upon the SP engaged and they are required to maintain all necessary licenses, permissions, approvals from relevant authorities under the applicable laws throughout the currency of the agreement.

13. Coming to the nature of payments to be made by the Bank to the SP for the services rendered, it is specifically provided under Clause 8.1, Clause 8.2 and Clause 8.3 which runs as follows:-

“8.1 SP shall be paid fees and commission in the manner detailed in Schedule ‘B’ hereunder written subject to deduction of income tax thereon wherever required under the provisions of the Income Tax Act by the Bank.

8.2 All other taxes including service tax, wherever applicable, duties and other charges which may be levied shall be borne by the SP and the Bank shall not be liable for the same.

8.3 All expenses, stamp duty and other charges expenses in connection with execution of this agreement shall be borne by SP.”

14. It is pertinent to mention that Clause 8 of the agreement makes it clear that SPs engaged were to be paid fees and commission and not the salary as contended by the AR of the workmen. In similar type of case, pertaining to similar terms and conditions, Hon’ble Rajasthan High Court in case of *Ákhil Raj Rajya Hand Pump Mistries Sanghathan & Anr. Vs. State of Rajasthan & Ors.’ 1994(1) WLC 1*, has held that *there is a clear distinction between a contract of service and contract for service. A contract of service does give rise to a relationship of master and servant but a contract for service does not give rise to such a relationship. The distinction in two concepts, though fine and subtle is nonetheless real. It is easy to distinguish on concept from other though it may be difficult to formulate the distinction precisely.*

15. Learned AR of the workmen contended that Hon’ble Supreme Court in a series of judgments for considering the relations of employer and employee has held that two things are necessary that relates to the payment of salary as well as control of the service. As per learned AR of workmen, the evidence on record

including appointment letter as well as terms and conditions of agreement bear ample proof that both the above specific norms are under the control of the respondent-bank as such, there exists relationship of employer and employee/master and servant between the workmen and respondent-management bank. Undoubtedly, this Tribunal has to find out the real controversy so as to complete the justice between the parties to the lis but in the instant case as discussed, it is not only the individuals but other entities may also be engaged as BCs and status of individual as BCs and other engagement of BCs is not concerned. It is difficult to accept that the individual BCs engaged there exists master and servant relationship which could not be recognized for other entities engaged. Moreover, the unequivocal terms and conditions incorporated in the agreement entered into between the parties regarding the nature of the services to be rendered by BCs, the mode of payments for services rendered, the term of engagement & termination and the responsibility fastened on the BCs engaged, clearly indicate that the contract between the claimants/workmen and the respondent-bank was a contract for service and not a contract of service giving rise to master and servant relationship.

16. The case law relied by the learned counsel of the respondent-bank in the matter of **Banking Business Facilitators Vs. The Chairman State Bank of India & Ors., arising out of the Letters Patent Appeal No.1274/2015, decided on 30.11.2016**, fully covers the facts of the present case. The Hon'ble Patna High Court has held in Para 12 of the above mentioned case that business correspondents were engaged on commission basis and appointment of claimants/workmen were contractual purely on commission basis and they had joined the service knowing well the terms and conditions as such there could not be any plea on principal of estoppel. The engagement was purely on contractual and thus could be terminated at any point of time in terms of agreement entered into between the parties. There is nothing on record to prove that either in the advertisement there is a promise with the business correspondent or service provider shall be confirmed with the status of an employee at any stage. It is pertinent to mention that after the selection the agreement entered into between the parties again shows that it is a contract entered which can be entered from time to time.

17. Having gone through the terms and conditions of the appointment letter as well as agreement executed between the parties, it can be apparently observed that it was a contract for service and not a contract of service as is observed by the Full Bench of Rajasthan High Court in the matter of **Akhil Raj Rajya Hand Pump Mistries Sanghathan & Anr. Vs. State of Rajasthan & Ors.' 1994(1) WLC 1**, as well as in the case of **State Bank of India through its Chairman Vs. Ashish Kumar & Ors., arising out in Writ petition No.1063/2018, decided on 28.11.2018**. Similarly, Hon'ble Punjab & Haryana High Court in Vinod Kumar & Ors. Vs. State Bank of India & Ors. arising out of CWP No.7518 of 2018 dated 27.3.2018, while deciding such types of case had held that.....

“there relationship with bank is governed by contract agreement with fixed terms they are not employees the contract can be terminated as per the terms and conditions of the signed agreement. The relationship between the Bank and BCs is one of the contract for service and not contract of service. Any breach could only sound in damages in the Civil Court. The writ jurisdiction is in appropriate beyond the stipulated period of expiry. Even premature breach of contract will only sound in damages and will not make an actionable in the Writ Court.” This view finds supports from the judgment of Hon'ble Punjab & Haryana High Court in **LPA No. 632/2018(O&M) in CWP No.7518/2018 dated 2.5.2018.**”

18. During the course of argument, this fact is admitted by the learned AR of workmen and counsel of the management that now workmen are no more in the service of the bank-management because of the expiry of the time mentioned in the agreement executed in the year 2017. Thus, the terms of the workmen/claimants engagement as individual BCs have come to an end as such, in my considered opinion, this Tribunal can neither direct the respondent-bank to extend the term of contract nor to be directed such contract to be enforced. It is pertinent to mention that Clause 11 of the last agreement executed in the year 2017 entered into between the parties, refers arbitration clause where it is incorporated that all disputes controversy arising out of the agreement in connection with the agreement or the purpose for the non-performance of the right and application set forth or the breach of termination invalidity of interpretation shall be referred to the terms of Arbitration Conciliation Act, 1996. Therefore, it is also open to the respondent-bank to raise the dispute invoking of the Clause incorporated in the agreement by appointing Arbitrator.

19. In the result, I am of the considered opinion that demand of business correspondents/claimants (as per list enclosed) working as service providers in the respondent-bank are not entitled for any regularization of services and other allowances claimed thereof. To my mind, claimants/workmen are not entitled for any relief so far through this reference. Award is answered accordingly.

20. Let copy of this award be sent to the Central Government for publication as required under Section 17 of the ID Act, 1947.

A. K. SINGH, Presiding Officer

नई दिल्ली, 13 जुलाई, 2021

का.आ. 463.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार स्टेट बैंक ऑफ पटियाला प्रबंधन के संबद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण नं. 2 चण्डीगढ़ के पंचाट (संदर्भ संख्या 17/2014) को प्रकाशित करती है, जो केन्द्रीय सरकार को 13.07.2021 प्राप्त हुआ था।

[सं. एल-12025/01/2021-आई आर (बी-1)]

डी. गुहा, अवर सचिव

New Delhi, the 13th July, 2021

S.O. 463.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the Award (Ref. No. 17/2014) of the *Cent. Govt. Indus. Tribunal-cum-Labour Court -II* Chnadigarh as shown in the Annexure, in the industrial dispute between the management of State Bank of Patiala and their workmen, received by the Central Government on 13.07.2021.

[No. L-12025/01/2021-IR(B-1)]

D. GUHA, Under Secy.

ANNEXURE**IN THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT-II,
CHANDIGARH****Present:** Sh. A. K. Singh, Presiding Officer.**ID No.17/2K14****Registered on:-15.07.2014**

Sh. Raghvir Singh S/o Sh. Phula Ram, Ex. Daftri O/o State Bank of Patiala,
Karsindhu, Jind R/o Village Dhansoli, Tehsil & Distt. Panipat, Haryana.

...workman

Versus

1. The Deputy General Manager, state Bank of Patiala, Zonal Office,
SCO No.70, Sector 5, Panchkula, Haryana
2. The Manager, State Bank of Patiala, Regional Office-2 (HR),
SCO 9-10, Sector 25, HUDA, Panipat, Haryana.
3. The Branch Manager, State Bank of Patiala, Karsindhu, Jind.

...Respondents/Managements

AWARD**Passed on:-02.02.2021**

1. The workman Raghvir Singh has directly filed his statement of claim under Section 2-A of the Industrial Disputes Act, 1947(hereinafter called the Act) for his reinstatement with full back wages, interest and cost, if any.

2. The brief facts relevant for deciding this claim petition is that the claimant/workman had been working as Daftri under the Management since 04.10.1983. Meanwhile, workman was transferred to different Branches of the Management and lastly he was posted to State Bank of Patiala, Karsindhu Branch, Jind. Charge-sheet dated 24.06.2005 was served to the workman/claimant and domestic inquiry was conducted against him and on the basis of the enquiry report the Disciplinary Authority vide order dated 17.12.2005 terminated his services. The workman filed appeal against the said order but to no avail. It has been alleged by the workman in his claim petition, filed under Section 2-A of the Industrial Disputes Act, that his services have been terminated illegally and without following the principles of natural justice inasmuch as enquiry was not conducted by the Enquiry Officer in proper manner without providing proper opportunity to appoint defence representative for inquiry. It is further alleged that enquiry was conducted in English as he is not aware with the English and only can make signature in English. It is further, alleged that witnesses were cross-examined by the Enquiry Officer himself and Bank Officer Rajneesh Kumar Attari crossed the workmen. It is further alleged that Enquiry Officer in a mala fide and partisan manner conducted the whole enquiry in single day without affording him any opportunity to defend his case.

3. The establishment has alleged in its written statement that in fact the workman was charge-sheeted vide charge-sheet dated 24.06.2005 for five charges enumerated in the written statement and alleged charges relates with the gross- misconduct in terms of Para 5(a), 5 (c), 5(e), 5(j) and 5(k) of Memorandum of Settlement on Disciplinary Action procedure signed between IBA and workmen-union dated 10.04.2002. The workman after receipt of above charge-sheet submitted his reply dated 26.07.2005, denied the charges framed against him. The Disciplinary Authority appointed Shri. D.D. Aggarwal, MMGS-III, as Inquiry Officer and Shri. Rajneesh Kumar Attari as Bank's Presenting Officer. It is further alleged that for the first time workman made his presence on 20.9.2005 and Inquiry Officer ensured the submission of documents and charge-sheet relied by the Bank. The witness of management was examined and the workman was allowed to cross-examine the witnesses. After recording evidence of the Bank witnesses workman was asked to furnish the list of defence witness if any, but he submitted that he had no evidence to offer as such enquiry proceeding were concluded and both the parties were order to submit the written briefs. Ultimately neither party submitted its brief hence inquiry officer, submitted his enquiry report dated 06.10.2005 to the Disciplinary Authority wherein all the charges except charge No.(3) to be proved. The inquiry officer after giving opportunity to file briefs of either party passed the order on 17.12.2005. The petitioner made an appeal before the Appellate Authority on 21.01.2006 which was rejected and he was removed from service by the impugned order. It is further alleged that claim petition deserves to be dismissed on the ground of delay and laches as the workman has raised the demand notice in the year 2013 i.e. after a period of 8 years as such, it is hopelessly time barred. Hence, the present petition deserves to be dismissed on this ground.

4. The workman Raghvir Singh has filed its replication, stating the facts that he never took any money from the customers as alleged in the written statement. In fact he had issued a cheque of Rs.1250/- to one Partap for the payment of grocery items purchased by the workman from his shop. It is further alleged that he purchased buffalo from Amrik Singh and in order to pay Rs.16,000/-, he has paid Rs.4,000/- in cash in two installments and also issued 6 post dated cheques of Rs.2,000/- each in favour of Amrik Singh. It is denied that he has taken Rs.12,000/- from Amrik Singh in the pretext for arranging job in the bank. As per replication, the workman has earning sufficiently hence, question of taking money from Dariya Singh does not arise at all. In fact all the persons have connived with the Branch Manager who have cooked up a false story against the workman/petitioner. The remaining facts are same as alleged in the claim statement hence, need not to be repeated again.

5. The workman/claimant has examined himself as WW1 and filed his affidavit as WWI/A and relied on the documents Annexures W-2 to W-11.

6. Management has examined two witnesses namely Smt. Raj Rani, Manager (H.R) and Sh. Devi Dass Aggarwal the Inquiry Officer who have filed his respective affidavits Exhibit MW1/A along with documents. Ex.MW1/1 to MW1/41(78 pages) pertaining to inquiry. Witness Devi Dass has filed its affidavit as evidence Exhibit MW2/A without any document.

7. I have heard learned counsel of the workman Sh. Vineet Chaudhary and learned counsel of the management Sh. S.K. Gupta as well as the written arguments filed by the learned counsel of workman and have gone through the records carefully.

8. Learned counsel for the workman submitted that management has not been able to prove charges against the workman and the enquiry conducted by the enquiry officer D.D. Aggarwal is unjust, unfair and against the principle of natural justice as such, quantum of punishment could not be decided on the basis of the aforesaid enquiry report. Learned counsel further argued that workman is not given proper opportunity to defend himself as such, gross injustice is caused to the workman by the dismissal order based on faulty enquiry.

9. Learned counsel for the management argued that action of the disciplinary authority in passing the dismissal order is in commensurate to the gravity of misconduct proved against the workman. It is also submitted by the learned counsel for the management-bank that role of the Court in the matter of departmental proceedings is very limited and the Court cannot substitute its own views or finding arrived on the basis of the evidence available on record. In the matter of imposition of sentence, the scope for interference by the Court is very limited to exceptional cases. The punishment imposed by the disciplinary authority cannot be subjected to judicial review. It is further submitted by the learned counsel that petition is time barred as such, liable to be dismissed. Learned counsel of management has placed reliance in the case of S.R. Tiwari Versus Union of India (2013(7) Scale Page 417) and in the case of Depot Manager, APSRTC Vs. Raghudha Shiv Shankar Prasad 2007(1) RSJ Page 331 and in the case of M.L. Singla Vs. Punjab National Bank and submitted that the workman is not entitled to any leniency.

10. Perusal of the enquiry report reveals that following charges has been framed against the workman i.e.:-

1. *You took money from the Bank's customer on the pretext of depositing in their respective accounts which you have not deposited. The few names of the customers are 1. Shri Pale Ram,*

S/o Shri Zile Singh and 2, Shri Ramkala, S/o Shri Desha, Resident of village Karsindhu, You even took money from Bank's bowwower who came to deposit in his loan account of Shri Partap, S/o Shri Ram Chander, Account No.CTL/01556060010, when Branch Manager intervened in the matter, you issued a cheque No.161520 for Rs.1250/- dated 04.04.2005 in the name of Shri Partap. However, the amount was credited to loan account on 20.04.2005 as there was in-sufficient balance in the account.

2. *You took Rs.12000/- from Shri Amrik Singh, S/o Shri Sardar Singh, resident of Village Rajoli, Tehsil Barara, District Ambala by promising him to arrange Bank's job. Now Shri Amrik Singh has made a complaint to GM(O) in this respect. You issued six post dated cheques numbering 161529 to 161534 dated 30.05.2006, 30.06.2005, 30.07.2005, 30.08.2005, 30.09.2005 and 30.10.2005 for Rs.2000/- each from your Savings Account in lieu of return of the money taken by you in an un-authorized manner.*
3. *Branch Manager has informed that you had also taken a sum of Rs.19470/- from one Shri Darya Singh on the pretext of marriage of your daughter on 16.05.2005. You called the son of Shri Darya Singh named Babloo to the Bank at about 2.15 P.M. with the promise to return the money but you instead of returning the money started shouting at him and said, "Get out from the branch". Upon this there was a quarrel between you and Shri Darya Singh which was resolved with the intervention of staff members. However, you left the branch at 3.30 p.m. As per written statement of villagers you boarded the bus and tried to run away but villagers stopped you from boarding the bus and at that point the quarrel/altercation took place between you and the villagers outside the Bank which act of yours tarnished the image of the Bank badly in public eyes.*
4. *Staff members of the branch have complained of your rude behavior and using unethical/filthy language against staff members as and when some official duty is assigned to you. You even abused undersigned(in absence) and other officers in the presence of Shri Phool Singh Sheokand, Advocate.*
5. *As reported by the Branch Manager/other staff members due to your indifferent attitude customer service/recovery and development of the branch is effected badly.*

The enquiry officer after conducting the enquiry, submitted his detailed report dated 24.06.2005 holding that the charge no.1, 2, 4 and 5 are proved except charge no.3 against the claimant/workman. Perusal of the enquiry report, it is crystal clear that claimant/workman was served with the charge-sheet regarding the misappropriation of the money of the bona fide consumers of the bank, mentioned in the charge-sheet itself. The enquiry officer D.D. Aggarwal has examined each and every aspect leveled against the workman and documents produced by the representing officer and came to the conclusion that charges with respect to misappropriation of the bank-amount is proved except charge-number 3(supra) mentioned in the charge-sheet itself.

11. Undoubtedly, in a departmental enquiry, the disciplinary authority is expected to prove the charges on preponderance of probability and not on proof beyond reasonable doubt. Reference may be made to the judgments of the Hon'ble High Court reported in *Union of India Vs. Sardar Bahadur; (1972) 4 SCC 618* and *R.S. Saini Vs. State of Punjab and Others; 1999(4) R.C.R (Civil) 253; (1999) 8 SCC 90*. The documents produced by the bank, which were not controverted by the charged official supports all the allegations and charges leveled against the charged employee. In a case, where the charged employee had failed to controvert the evidence produced before him, it is always open to the Inquiring Authority to accept the same. Management has every right to prove the charges against the workman on preponderance of probability and not on proof beyond reasonable doubt. So far as the case in hand is concerned, workman has not submitted any evidence so far regarding his innocence and did not adduce any cogent evidence. Contrary to this, Tribunal vide its order dated 16.03.2020 has held regarding preliminary issue no.1 that enquiry against the workman is conducted with all fairness after giving proper opportunity to defend workman and principle of natural justice is followed as is held in so many cases by the Hon'ble Supreme Court.

12. There is no dispute that Section 11-A of the Act empowers this Tribunal to interfere with the quantum of punishment in appropriate cases(see decision of Hon'ble Apex Court in the case of *Pepsu Road Transport Corporation Versus Rawel Singh, 2008 AIR (SCW) 2099*; of Punjab & Haryana High Court in the case/s of *Punjab National Bank Vs. The Presiding Officer, CGIT & another 2012(2) SLR 631; Harnek Singh Versus State of Haryana & others 2010(3) SLR 276* and *Joginder Lal Versus The Presiding Officer, Labour Court, Ambala & another 1996 SCT 436*. It is fairly settled that discretion is to be exercised judiciously in such cases where order of punishment is quite harsh & disproportionate to the gravity of misconduct of the official concerned on the basis of evidence on record.

13. It is settled law that punishment of the penalty to be imposed by the disciplinary authority against the charge-sheeted official is to be commensurate with the gravity of alleged misconduct. Undoubtedly, an

Industrial Tribunal in terms of Section 11-A of the Act exercises discretionary jurisdiction. Indisputably, discretion must be exercised judiciously and it cannot be based on whims and caprices and should be based to all relevant factors in mind in exercising such jurisdiction. The nature of the misconduct alleged the conduct of the parties the manner in which the enquiry proceedings had been conducted may be held to be relevant factor. A misconduct committed with an intention deserves the maximum punishment. Each case must be decided on its own merits and in given case when the doctrine of proportionality may be invoked.

14. Question which arises for consideration before this Tribunal is whether punishment of termination is in proportionate to the charges proved against the charge-sheeted employee/workman. Considering the scope of judicial review on the quantum of punishment and referring to various cases in Jai Bhagwan Vs. Commissioner of Police & Ors., 2013(4) S.C.T. 607: (2013) 11 SCC 187, the Apex Court held as under:-

“What is the appropriate quantum of punishment to be awarded to a delinquent is a matter that primarily rests in the discretion of the disciplinary authority. An authority sitting in appeal over any such order on punishment is by all means entitled to examine the issue regarding the quantum of punishment as much as it is entitled to examine whether the charges have been satisfactorily proved. But when any such order is challenged before a Service Tribunal or the High Court the exercise of discretion by the competent authority in determining and awarding punishment is generally respected except where the same is found to be so outrageously disproportionate to the gravity of the misconduct that the Court considers it to be arbitrary in that it is wholly unreasonable. The superior courts and the Tribunal invoke the doctrine of proportionality which has been gradually accepted as one of the facets of judicial review. A punishment that is so excessive or disproportionate to the offence as to shock the conscience of the Court is seen as unacceptable even when courts are slow and generally reluctant to interfere with the quantum of punishment. The law on the subject is well settled by a series of decisions rendered by this Court....”

15. Similarly, the Constitution Bench of the Supreme Court in State of Orissa and Oths. Vs. Vidyabhushan Mahapatra (1963) Supply 1 S.C.R. 648 opined that even if the charges which have been proved justified imposition of punishment of dismissal from service this Court may not exercise its power of judicial review. Thus, it is made clear by the Constitution Bench that power of judicial review is rare jurisdiction confirmed to the Tribunal as well as High Court which could be exercised in rare manner going through the facts and the gravity of the charges proved during the course of enquiry by the management. Similarly, the Hon'ble Supreme Court in Usha Breco Mazdoor Sangh Vs. Management of Usha Breco and Oths., Civil Appeal No.3551/2008 decided on 29.04.2008, has held that:-

“It may not be a correct approach for a superior court to proceed on the premise that an Act is a beneficent legislation in favour of the management or the workmen. The provisions of the statute must be construed having regard to the tenor of the terms used by the Parliament. The court must construe that statutory provision with a view to uphold the object and purport of the Parliament. It is only in a case where there exists a grey area and the court feels difficulty in interpreting or in construing and applying the statute, the doctrine of beneficent construction can be taken recourse to. Even in cases where such a principle is resorted to, the same would not mean that the statute should be interpreted in a manner which would take it beyond the object and purport thereof.”

16. There is no doubt that workman was employed as a Daftri at the relevant time and he has misappropriated total amount as mentioned in the charge-sheet while working as Daftri with respect to those account-holders who have issued cheques or paid cash and was found guilty during the course of enquiry, resulting in the termination by the competent authority of the management. The Hon'ble Supreme Court in the case of Regional Manager, U.P.SRTC vs. Hoti Lal, 2003(3) SCC, 605, has held in paragraph 10 as under:-

“If the charged employee holds a position of trust where honesty and integrity are inbuilt requirements of functioning, it would not be proper to deal with the matter leniently. Misconduct in such cases has to be dealt with iron hands. Where the person deals with public money or is engaged in financial transaction or acts in a fiduciary capacity, the highest degree of integrity and trustworthiness is a must and unexceptionable. Judged in that background, conclusions of the Division Bench of the High Court do not appear to be proper. We set aside the same and restore order of the learned Single Judge upholding order of dismissal.”

This view is further fortified by the Hon'ble Supreme Court in the case of Chairman and Managing Director, United Commercial Bank vs. P.C. Kakkar, 2003(4) SCC 364, has held in paragraph 14 as under:-

“A Bank officer is required to exercise higher standards of honesty and integrity. He deals with the money of the depositors and the customers. Every officer/employee of the Bank is required to take all possible steps to protect the interests of the Bank and to discharge his duties with utmost integrity, honesty, devotion and diligence and to do nothing which is unbecoming of a Bank officer. Good

conduct and discipline are inseparable from the functioning of every officer/employee of the Bank. As was observed by this Court in Disciplinary Authority-cum-Regional Manager vs. Nikunja Bihari Patnaik, 1996(9) SCC 69. It is no defence available to say that there was no loss or profit resulted in case, when the officer/employee acted without authority. The very discipline of an organization more particularly a Bank is dependent upon each of its officers and officers acting and operating within their allotted sphere. Acting beyond one's authority is by itself a breach of discipline and is a misconduct. The charges against the employee were not casual in nature and were serious. These aspects do not appear to have been kept in view by the High Court."

17. So far as the maintainability of claim petition by virtue of being delayed about 8 years is concerned, the burden to prove this fact is lying with the bank. Learned counsel of the management argued that workman is terminated from service on 17.12.2005 and the workman has filed his claim petition to this Tribunal on 15.07.2014 i.e. after more than 8 years. Contrary to this, learned counsel of the workman contended that the workman approached to the Hon'ble Punjab & Haryana High Court by virtue of the Writ petition registered as Writ Petition No.4626 of 2009, which was certainly dismissed by the Hon'ble High Court vide its order dated 24.03.2009, holding that writ petition is preferred after a long delay as such, Court does not found any reason to entertain the petition at this belated stage. Learned counsel further argued that after the dismissal of the writ petition by virtue of being filed at the belated stage, workman could not make demand notice in time due to his poverty and ignorance of Law. Learned counsel further argued that there is no specific provision in the Industrial Disputes Act like as Limitation and Limitation Act is not applicable with respect to the ID Act as is held by the Hon'ble Supreme Court in the Case of *Jaib Singh Vs. The Sirhind Co-op, Marketing-cum-Processing Service Society Ltd., Civil Appeal No.2157 of 1999 dated 08.04.1999, Haryana Land Reclamation and Development Corporation Ltd. Vs. Nirmal Kumar, Civil Appeal No.3961 of 2006, Decided on 10.12.2007 and Raghubir Singh Vs. General Manager, Haryana Roadways, Hisar, Civil Appeal No.8434 of 2014, Devided on 03.09.2014.* I have gone through the judgments of the Hon'ble Supreme Court cited by the learned counsel of management as well as learned counsel of workman. In a series of judgment, Hon'ble Supreme Court has observed that there is no universal formula on the basis of which it can be laid down that reference is within time or not. As per the Hon'ble Supreme Court, it depends on the facts of each case and there is no limitation prescribed for seeking demand under the Industrial Disputes Act, 1947, because provisions of Article 137 of the Limitation Act are not applicable to any application made under the ID Act, 1947. The Hon'ble Supreme Court in a few cases has held that reference may be deemed to be delayed if either of the party had not kept the dispute alive during the long interval or where reference has become stale by virtue of conduct of the claimant/workman or documents regarding the disputes has been weeded out or lost due to long gap when cause of action had arisen. So far as the case in hand is concerned, there is no dispute that the reference is made after a long gap of 8 years but it is equally proved that workman was presenting his case before the Hon'ble High Court in writ petition and has made a demand notice after the dismissal of the writ petition. In this respect, I am of the opinion that it cannot be said that claim petition is time barred and is not maintainable.

18. So far as relief of reinstatement of the workman is concerned with the full back wages with continuity, it can be observed that on the basis of the above factual and legal position, this Tribunal is of the considered opinion that punishment of termination is in commensurate with the gravity of misconduct committed by the workman who misappropriated the money of consumers of bank, thus, his misconduct has damaged the trust of the bank. In such scenario, punishment of termination is in consonance with the misconduct committed by him as such, he is not entitled for reinstatement or back wages and continuity of service and petition is liable to be dismissed.

19. Let copy of the award be sent to the Central Government for publication of the same as required under Section 17(2) of the Act.

A. K. SINGH, Presiding Officer

नई दिल्ली, 16 जुलाई, 2021

का.आ. 464.—राष्ट्रपति, श्री राधा मोहन चतुर्वेदी, पीठासीन अधिकारी, केन्द्रीय सरकार औद्योगिक अधिकरण सह श्रम न्यायालय, जयपुर को सौंपे गए केन्द्रीय सरकार औद्योगिक अधिकरण सह श्रम न्यायालय, अहमदाबाद के पीठासीन अधिकारी के अतिरिक्त प्रभार की अवधि दिनांक 15.07.2021 से छः माह तक अथवा नियमित रूप से पद भरे जाने तक अथवा अगले आदेशो तक, इनमें जो भी पहले हो तक बढ़ाते हैं।

[सं. अ-11016/05/2020-सीएलएस-II]

सतीश चन्दर, अवर सचिव

New Delhi, the 16th July, 2021

S.O. 464.—The President is pleased to extend the additional charge of the post of Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Ahmedabad entrusted to Shri Radha Mohan Chaturvedi, Presiding Officer, Central Government Industrial Tribunal-cum-Labour Court, Jaipur for a further period of six months with effect from 15.07.2021 or till the post is filled up on regular basis, or until further orders, whichever is the earliest.

[No. A-11016/05/2020-CLS-II]

SATISH CHANDER, Under Secy.